LIBRARY OF PRINCETON
MAY 10 1917
THEOLOGICAL SEMINARY

Division HV8665
Section .L67

ALFRED HOPKINS, Architect

PENITENTIARY AND WORKHOUSE, EAST VIEW, WESTCHESTER COUNTY, NEW YORK

(Showing small outside cell buildings, permitting classification; workshops at rear inclosing wall)

HARPER'S MODERN SCIENCE SERIES

THE OFFENDER

AND HIS RELATIONS TO LAW AND SOCIETY

LIBRARY OF PRINCETON
MAY 10 1917
THEOLOGICAL SEMINARY

BY

BURDETTE G. LEWIS, A. B.

COMMISSIONER OF CORRECTION, CITY OF NEW YORK

ILLUSTRATED

HARPER & BROTHERS PUBLISHERS
NEW YORK AND LONDON

THE OFFENDER

Copyright, 1917, by Harper & Brothers
Printed in the United States of America
Published March, 1917

C-R

TO

MY WIFE

MY BEST AND FAIREST CRITIC

THIS BOOK IS DEDICATED

CONTENTS

PAGE

INTRODUCTION xi

PART I

SOCIETY AND THE OFFENDER

CHAP.

I. DIFFERENT VIEWPOINTS 3

WHY THE OFFENDER?—PRODUCT OR BY-PRODUCT?—OLD IDEAS—RADICAL IDEAS—COMMON-SENSE IDEAS—SOCIAL CONTROL OF THE OFFENDER.

II. SOCIETY'S TREATMENT OF THE OFFENDER 11

THE DIFFERENT PURPOSES OF PUNISHMENT—OLD CORRECTIONAL INSTITUTIONS—THE QUESTION OF DISCIPLINE—THE CRIMINOLOGISTS—PRISON REFORM FROM WITHIN—SOCIAL REFORMATION AND CORRECTIONAL WORK.

III. THE COURT AND THE OFFENDER 31

THE COURT, SOCIETY'S BULWARK—ESTABLISHMENT OF GUILT OR INNOCENCE—INFERIOR CRIMINAL COURTS: THE CITY MAGISTRATES' COURT; COURT OF SPECIAL SESSIONS—THE HIGHER CRIMINAL COURTS—WEAKNESSES OF THE PRESENT SYSTEM: LACK OF UNIFORMITY OF TREATMENT; TRADITIONAL RESTRICTIONS; FREQUENT APPEALS; FAULTY ADMINISTRATION; GOVERNMENT DIVIDED AGAINST ITSELF; CONGESTED CALENDARS AND PRISONS; FAULTY IDENTIFICATION—IMPOSITION OF SENTENCE—FAULTY DIAGNOSIS.

CONTENTS

CHAP. PAGE

IV. CLASSIFICATION OF THE OFFENDER . . . 58

Bases of Classification—Physical and Mental Status: The Physically Handicapped; The Mentally Handicapped; The Inebriate; The Habitually Idle; The Unskilled; The Aged—Character and Conduct; The Capable and Hopeful; The Capable and Wilfully Delinquent; The Incapable and the Unfit—The Nature and Cause of Delinquency: The Casual and Environmental or Social Offender; The Constitutional or Habitual Offender; The Symptomatic Offender—The Training Required—The Age Group of the Offender: The Physical Age Group; The Mental Age Group.

V. PROBATION AND PAROLE 80

Who Should Be Placed on Probation—Who Should Be Probation Officers—Is Probation Punishment?—Extension of Probation System—How Long Should Probation Continue?—Who Shall Be Placed upon Parole?—Who Should Act as Parole Officers?—Combination of Probation and Parole.

VI. THE CLEARING-HOUSE 102

In the Educational and Business Worlds—Clearing-houses for Offenders—What the Clearing-house May Determine.

VII. THE INDETERMINATE SENTENCE 114

Failure of the Definite Sentence—Features of the Indeterminate Sentence: The Inmate Should Be Cured of Disease; The Inmate Should Be Fitted to Earn His Own Living; The Permanent Custodial Cases Should Be Segregated — Weaknesses of the Indeterminate Plan—What Experience Teaches.

VIII. AUTOCRATIC GOVERNMENT AND DISCIPLINE 139

Kinds of Government—The Separate and Silent Systems.

IX. OTHER SYSTEMS OF GOVERNMENT AND DISCIPLINE 155

The Benevolent Despotic—The Elmira System—The Mixed Autocratic and Benevo-

CONTENTS

CHAP. PAGE

LENT DESPOTIC SYSTEM—THE MIXED BENEVOLENT DESPOTIC AND HAMILTONIAN REPUBLICAN—JEFFERSONIAN DEMOCRATIC SYSTEM—THE BEST TYPE OF PRISON GOVERNMENT.

X. INSTITUTIONAL ORGANIZATION AND TREATMENT 174

PRISON OR HOSPITAL—INSTITUTIONAL STRUCTURES—TYPICAL INSTITUTIONS: STATE REFORMATORY FOR WOMEN, BEDFORD HILLS, NEW YORK; GEORGE JUNIOR REPUBLIC, FREEVILLE, NEW YORK; ORPHAN ASYLUM OF THE HEBREW SHELTERING GUARDIAN SOCIETY, PLEASANTVILLE, NEW YORK; THE NEW YORK CITY REFORMATORY, NEW HAMPTON FARMS, ORANGE COUNTY; THE NEW YORK CITY INEBRIETY FARM, WARWICK, NEW YORK; GREAT MEADOW PRISON, COMSTOCK, NEW YORK; GUELPH PRISON FARM AT GUELPH, ONTARIO; WESTCHESTER COUNTY PENITENTIARY, NEAR WHITE PLAINS, NEW YORK; MINNESOTA STATE PRISON, STILLWATER; MUNICIPAL FARM, RIKERS ISLAND, NEW YORK CITY; OTISVILLE SANITARIUM—STRUCTURES TO BE AVOIDED.

XI. PRODUCTIVE PRISON WORK 197

XII. INDUSTRIAL TRAINING 207

SENTENCES TO HARD LABOR IMPRACTICAL—BOOK-SCHOOL TRAINING—SUPERVISION OF WORK AND TRAINING.

XIII. INSTITUTIONAL MANAGEMENT 216

RECEPTION PROCEDURE—CONDUCT AND WORK RECORDS.

XIV. INSTITUTIONAL PROCEDURE 233

PUNISHMENT — CLOTHING — HAIR-CUTS — CLASSIFICATION AND SANITATION—FOOD PREPARATION—RECORDS AND ACCOUNTS—RELEASES AND DISCHARGES.

PART II

THE PREVENTION OF CRIME

I. FUNDAMENTAL SOCIAL FORCES 253

THE CHURCH—THE HOME—THE SCHOOL—RECREATION AND PLAY—HEALTH AND SANITATION.

CONTENTS

CHAP.		PAGE
II.	TENDENCIES OF POLICE SUPERVISION . . .	286
	MORALS-CONTROL WORK WEAKENS POLICE MORALE —PRIVATE OPPOSITION TO MORALS CONTROL— PENAL LAW OFTEN UNFAIR TO CHILDREN—THE "STOOL-PIGEON" SYSTEM A NECESSARY EVIL— POLICE AND THE EX-CONVICT.	
III.	THE RÔLE OF THE POLICE	305
	CENTRALIZED IDENTIFICATION AND OTHER RECORDS —EMPLOYMENT—CONCLUSION OF THE MATTER.	

APPENDICES

I.	BRIEF DESCRIPTION OF THE FUNCTIONS OF SELF-GOVERNMENT IN THE PRESTON SCHOOL OF INDUSTRY	315
II.	INSANITY AND CRIMINAL RESPONSIBILITY —REPORT OF COMMITTEE "A" OF THE INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY	323
III.	PROBATION WORK	332
IV.	EXCERPTS FROM THE REPORT OF WARDEN GAYLORD B. HUBBELL, SING SING PRISON, UPON THE IRISH CONVICT SYSTEM AND ENGLISH PRISONS, 1865	337
V.	INDETERMINATE SENTENCE RESOLUTIONS, INTERNATIONAL PRISON CONGRESS, WASHINGTON, D. C., OCTOBER, 1910 . .	347
VI.	CENTRALIZATION AND CONCENTRATION OF STATE CONTROL	349
VII.	PLAN FOR THE RATIONAL TREATMENT OF WOMEN CONVICTED IN THE COURTS OF THE COUNTY OF NEW YORK (OR CITY) . .	358
	WORKS, ETC., QUOTED AND REFERRED TO .	373
	AUTHORS, ETC., QUOTED AND REFERRED TO	375
	INDEX	377

ILLUSTRATIONS

PENITENTIARY AND WORKHOUSE, EAST VIEW, WESTCHESTER COUNTY, NEW YORK . . . . *Frontispiece*

FLOOR PLAN, DETENTION HOME FOR WOMEN, TO BE ERECTED IN NEW YORK CITY . . . . . *Facing p.* 174

PERSPECTIVE FROM TWENTIETH STREET OF DETENTION HOME FOR WOMEN . . . . . " 175

BLOCK PLAN OF STATE REFORMATORY FOR WOMEN, BEDFORD HILLS, NEW YORK . . . . . " 180, 181

BLOCK-PLAN LAYOUT, HEBREW SHELTERING GUARDIAN ORPHAN ASYLUM, PLEASANTVILLE, NEW YORK . . . . . " 186, 187

BLOCK-PLAN LAYOUT OF PENITENTIARY AND WORKHOUSE, EAST VIEW, NEAR WHITE PLAINS, NEW YORK . . . . . " 192, 193

GROUND PLAN AND LAYOUT, STATE PENITENTIARY BUILDIDGS, STILLWATER, MINNESOTA . . . . " 198, 199

FLOOR PLAN OF DORMITORY, MUNICIPAL FARM, RIKERS ISLAND, NEW YORK CITY . . . . " 202

ISOMETRIC VIEW OF CUBICLES IN DORMITORY, MUNICIPAL FARM, RIKERS ISLAND, NEW YORK CITY . . . . . " 203

FIRST-FLOOR PLAN, OTISVILLE SANATORIUM FOR INCIPIENT STAGES OF TUBERCULOSIS, OTISVILLE, NEW YORK . . . . . " 206

SECOND-FLOOR PLAN, OTISVILLE SANATORIUM FOR INCIPIENT STAGES OF TUBERCULOSIS, OTISVILLE, NEW YORK . . . . . " 206

INMATE MOWING, NEW YORK CITY REFORMATORY, NEW HAMPTON, NEW YORK . . . . . " 212

PLAN, RECEIVING DIVISION, ADMINISTRATION BUILDING OF NEW YORK CITY REFORMATORY, AGRICULTURAL AND INDUSTRIAL COLONY . . . . " 244

FLOOR PLANS, BUILDING FOR TREATMENT OF VENEREAL DISEASES, RIVERSIDE HOSPITAL, NORTH BROTHER ISLAND, NEW YORK CITY . . . . " 370

INTRODUCTION

How are we to deal with the offender? There are those who are able to understand but a single phase of the problem and who accordingly hold to a single remedy as a cure-all. According to their respective points of view they urge the redrafting of penal laws, or the reorganization of courts, or the abolition of grand juries, or the elimination of the shortcomings of the police, or the reorganization of prisons, or the introduction of socialism and phases of communism, or the sterilization of idiots and of the feeble-minded, or improvements in religious, in educational, in recreational, and in health work.

It is certain, however, that the problem cannot be solved merely by changes in a single governmental institution, nor by the improvement of social conditions, nor by the adoption of certain expedients. The gradual and steady improvement of all social conditions and of all social and governmental institutions, and the gradual elimination of conditions which impede progress are the only sure bases of future progress.

We should recognize at once that there are not a sufficient number of criminals to challenge successfully the socializing forces of modern society. Criminals now number, and in the past have numbered, only about 2 per cent. of the total population. If they

constituted 20 or 30 per cent. of the total population, or if they were rapidly increasing in number the problem would seem very much more serious.

There is apparently no one single cause of delinquency. Many causes contribute to delinquency and many forces work together to prevent the development of the delinquent or to effect his rehabilitation as a self-supporting, self-controlled member of society.

There is no one method of treating the offender in order to effect his rehabilitation. Changes in social and governmental organizations and industrial organization profoundly affect the delinquent. Some changes tend to eliminate him, while others create new crimes and offenses, and as a consequence, new classes of or an additional number of offenders.

Some students have already noted the small percentage of old men and old women among delinquents, and the large number of those under thirty years of age. Some hold that this proves that crime is the result of misdirected adolescent energies and that excessive energy is wiped out by advancing years. Others hold that the criminal dies young. The whole truth is not yet known. Our studies have not been carried far enough. The adolescent period and the years following adolescence are productive of a great deal of social disorder. The death rate among offenders is very high and many of them perish before they are forty. Careful and extended investigation will in the future reveal to what extent adolescence operates to encourage criminal tendencies and how far maturity and early death operate to eliminate the offender.

Commendable progress has been made in eliminating the offender and in effecting his rehabilitation through

well-thought-out plans. We are beginning to treat the offender in much the same way as we treat the insane. The treatment of the insane was somewhat similar to our recent treatment of the delinquent. Originally the insane were treated as if they were possessed of demons. Finally, special treatment was provided, and special institutions were established to care for such afflicted persons, with the result that 20 to 30 per cent. of those committed to the best hospitals for the insane are either released as cured or may be safely released under the supervision of friends or relatives. The modern tendency is to treat the delinquent in much the same way. The best practice calls for a careful diagnosis of the case of each offender and directs that treatment based upon such investigation should then be provided. This treatment need not necessarily be medical in character. Sometimes it should be careful supervision of ordinary personal habits until good habits are substituted for bad habits.

We now know that commitment to prison should be made where it is not in the interest of the individual or of society to release the convicted offender under supervision.

In formulating different methods of handling the individual delinquent we have learned that old methods should be utilized as long as they are really serviceable, and should not be discarded merely because they are old. The wisest leaders agree that new methods should be carefully tested before they are adopted generally, because experience has demonstrated that there was much good reason for the adoption of the old methods and policies which the inexperienced seldom appreciate.

INTRODUCTION

No single plan of administration or single type of government and discipline should be adopted for all classes of offenders in the same institution, or in different institutions. The human equation must be recognized and differentiation must be made accordingly.

I have attempted to deal with the problem of the offender from a practical standpoint; that is, from the standpoint of one responsible for the daily administration of a large department, which has been created to deal with certain phases of the correctional problem in the largest city in the world. This experience has demonstrated the necessity for cooperation between the different governmental and private agencies, so that the correction department may be able to function to the best advantage I have found it necessary, in my own work, to refer to historical origins and to old methods of treatment in order to understand differences between existing methods and policies and those which have partly superseded them.

In order to administer intelligently this large department, I have also found it necessary to proceed carefully and to experiment widely before effecting a departure from well-known methods of treatment.

In the following pages will be found the results of my study and of my experience. I have attempted to point out how the correctional system of a State should be developed, and from what point of view its various correctional institutions should be managed. There are chapters dealing with the court, with the different systems of classification, with probation and parole, with the clearing-house laboratory for scientific investigation, with the indeterminate and the definite

sentence, with autocratic government and discipline and other systems of government, including the so-called modern self-government system, with institutional organization and treatment, with prison labor, with industrial training, with details of institutional management, and with institutional procedure.

I do not feel that I have in any way exhausted the subject. I have attempted to formulate suggestions and methods of handling the delinquent which I hope will prove of some practical value to students, judges, lawyers, institutional managers, institutional officers, boards of control, and other, governmental agencies which have either to provide new facilities or to operate existing facilities dealing with the delinquent.

It has seemed to me that a method of treating the individual offender may be adopted which may at the same time furnish information upon which the city or the State should base its crime-prevention program. There has been much discussion of metaphysical phases of the subject, but very little has been done to learn the facts with respect to the delinquent and his environment. These facts when they are developed will prove of great importance in preventing the development of crime and of the different kinds of lesser offenses, if they are used in proper manner.

How these facts may be developed I have attempted to indicate in Part I of this book. In the second part I have given consideration to those fundamental social forces upon which, in my judgment, we must depend in order to check the development of the offender. Among the most important of these are the home, the church, the school, health and sanitation, and the police. In order to prevent the growth of the offender,

society must depend upon forces or agencies such as these to eliminate those conditions which permit individuals to drift into a life of crime. The information collected while dealing with the delinquent, as suggested in Part I, should be utilized by the forces outlined in Part II in order to improve the character of their work. In short, all the forces of law and of order and of social development should be utilized to the fullest extent and in harmonious co-operation as far as possible.

Treatment of symptoms should not be allowed to crowd out the study of causes, as the study of causes will help prevent the development of the offender. The treatment of symptoms may, it is true, help check or curb criminal activities, but such treatment is hardly sufficient to prevent the growth of abnormal traits which may, if not properly handled, develop into criminal acts. Prevention through a study of conditions, and through the encouragement of normal growth and development, is of primary significance.

BURDETTE G. LEWIS.

NEW YORK, 1917.

Part I

SOCIETY AND THE OFFENDER

THE OFFENDER

I

DIFFERENT VIEWPOINTS

Why the Offender? The offender, like the poor, is always with us. Through all ages he has been society's problem, civilization's enigma. Why should he persist? Is he civilization's spoiled child, who makes sport of nature, or is he a broken reed caught up and crushed by the mills which the gods grind? Does he prove that mankind is not advancing, that evolution is change but not progress, and that society multiplies her breeds of men to destroy each other?

Product or By-product? Despite the age-long existence of vendetta and the criminal bands, and despite the continuance in our great cities of criminal organizations that apparently have a public opinion, a code of morals and courts of their own which our statutory law fails to control, the hopes of mankind are not vanquished by the offender. Most men prefer to believe that change means progress, that society normally encourages and fosters the higher and not the lower, the spirit and not the brute, in man. Through all the ages men have accepted these propo-

sitions as facts, and have met as best they could the dangers and vicissitudes they encountered by the way.

Most men have regarded the offender either as a man who has grown weary in the search for the pot of gold at the rainbow's end or as a man forging ahead who is unwilling to undergo the restraints imposed by law and convention. From either viewpoint most men regard the offender as one who increases the difficulties and trials of mankind, not as one who prevents or defeats progress—although enthusiasm for the good, on one hand, or pessimism and dismay with respect to righteousness, on the other, may retard the car of progress.

The point of view of this book is that mankind is advancing; that progress is continuous, even though it be delayed by opposing forces. We agree with Dr. Richard T. Ely, who, in his treatment of competition, has taken the position that "the altruism which has been developed in competitive society, and which has manifested itself in an infinite variety of methods for the alleviation of human suffering, the prolongation of life, and the amelioration of man's social and physical environment, has been co-existent with the increasing strength and efficiency of men in modern society. The reasons for the theory of a possible decline in vigor, due to modern improvements resting upon a combination of philanthropy and science, are obvious enough. The reasoning runs about as follows:

"Philanthropy and science keep alive men who otherwise would perish. These men reproduce their kind, and the result is an enfeebled progeny. Reproduction goes on, and as heredity determines chiefly the characteristics of those who live, we have a feebler parentage leading to a feebler race of men.

"The writer can at this place describe such thoughts and observations as have convinced him that never before has there been a higher degree of vigor in modern nations, and never before have more promising efforts been made to maintain and even to increase man's physical powers and economic efficiency." [1]

For convenience in treatment we may group the leading ideas concerning the offender into the three following classifications: A, Old Ideas; B, Radical Ideas; and C, Common-sense Ideas.

Old Ideas. The flight of the offender to shrines and places of refuge helped to keep alive one conception of how he could be treated. The brief stay in this place of refuge finally gave way to the longer stay in another place of refuge—the prison. Foundation of the prison gave rise to various ideas which became settled in practice. The demand of this conception was for treatment of the offender which would be, first, punitive; second, deterrent; third, reformative; fourth, preventive. Some nations and institutions at times seem to have centered upon punishment alone, and to have adopted measures which not only were destructive of good in the offender, but also encouraged the brute in him; then they turned him loose in the community with a desire for revenge rankling in his heart. We need not be surprised, therefore, when we find that he became like a hunted animal, possessed by fear and hatred of those orderly and repressive forces of society which he felt had goaded him on. To him the older plan meant destruction of his better self, not destruction of the evil in him; the breaking of his body and mind,

[1] Ely, R. T., *Evolution of Industrial Society*, pp. 164, 165, 181. The Macmillan Company, New York, 1906.

and his later reception by the community as a branded and abnormal creature. In some of these nations the sick and the offender appeared to most men as persons possessed of demons, whose bodies should be broken and outraged in order to drive the demons out. Finally the sick won the right to decent treatment, later the insane came into their own, and still later the offender was able to claim some sympathy for his imperfections and some consideration for the good in him as well as condemnation for the bad in him.

Radical Ideas. At the other extreme to-day are those who would coddle and fondle the tiger in the criminal; who believe that the gunman who murders for a few dollars, and the abnormal beast who slashes little ones to gratify a fiendish curiosity, are children of nature for whom society is responsible. They would overwhelm such a man with kindness, believing that good is so much stronger than evil that in a fair fight the good will prevail. They are idealists who cheer mankind, but who, given free rein, would wreck institutions through neglect and misunderstanding. They believe that the sense of justice descended from on high, although research informs us it was born and grew in the midst of mortal combat between the Davids and Goliaths, in the prize-ring between antagonists who refused to hit below the belt, and on the frontiers where experience taught men to obey "the rules of the game."

Some among these men and women are less idealistic and visionary, but fail to appreciate that "the unschooled sense of justice acquiesces in a shoot-at-sight policy as cheerfully as in a régime of peace, sees fairness no less in the arbitration of the gun than in that of a court." Still others among them fail to

understand that "reasonable rules once set up, the just-minded hasten to obey them, because now each knows what forbearances he can look for in his rivals. Thus is formed a law-abiding disposition, the birthright of all good laws, but soon lost if they are not enforced." [1]

Common-sense Ideas. Between these two extremes the truth lies. How may we discover it? How shall we act when it is discovered? We have the criminal who is bad because of his physical and mental make-up, to whom Lombroso and his school called attention. We have the clever scoundrel who is bad because he wishes to be so, and whom our well-meaning sociologists have failed to understand. These represent a small minority of those with whom we have to deal. Between these two groups lies the great group of offenders who are more or less passive, whose enthusiasm and enterprise are limited. How are we to leaven this great lump; how inspire them to noble deeds? This is the real problem with which society has to deal.

There is only one way to deal with this great middle group. It is to attack the problem by the use of modern scientific and common-sense methods. The abnormal offender and the wilful offender may best be consigned to study by those who are chiefly interested in the peculiar, the unusual.

We cannot determine exactly at present how far the offender is directly responsible to society for his shortcomings. We must assume that heredity is partly responsible and environment is partly responsible; that in one man perhaps the hereditary in-

[1] Ross, E. A., *Social Control*, pp. 34, 35, the Macmillan Company, New York, 1901.

fluences and in another man perhaps the environmental influences are chiefly responsible for his downfall. We do know that each offender must be treated as an individual and not merely as one of an outcast class, and that each offender will yield to treatment if we can but discover what treatment to apply. One starting-point, therefore, is the offender himself. Then we should consider those institutions which have been organized for dealing with the offender.

The people at large must await patiently the outcome of careful investigation and careful treatment, and not become either panic-stricken at outbreaks of criminality or misled by glowing promises of reform. The only sure way is to repress crime where it appears and to formulate and carry out plans for prevention of the development of the offender.

The forces of government and of society are perplexed by the young gangman, "the white-slaver," and the young gunman—the boy of the idle, predatory sort who is "wise," sly, slangy, "tough." His swagger, his slang, his cocksure gossip of gamblers, prize-fighters, and women may indicate a blood taint, a perversion and inversion of instinct, or a failure of society to furnish to him the dramatic interest and appeal which his nature craves. The law may prescribe a penalty to be visited upon him for his offenses, but the court stands helpless if it is called upon to prevent the production of this child of the street.

Society is not without resources, however, in dealing with these strange children of the world. It has resources other than the law and the courts. The child-welfare stations, with their physicians and visiting nurses, have demonstrated that babes born in the same homes which have produced these gang-

sters and these children of the streets may have their crooked limbs made straight, their tiny, emaciated bodies made plump, and their little lives made cheerful and sunny. We now know that society, through the adoption of proper preventive measures, may insure to children yet unborn a decent birth and a happy childhood, leaving no room for the perversions of instinct and the attractions of the lower nature which have produced the elder brother of the street and the brothel.

The forces of society, therefore, must deal with the offender kindly, firmly, and intelligently. He should be punished only for purposes of reproof and instruction in righteousness; his blood should not be contaminated, his body destroyed, and his spirit broken and brutalized. His criminal tendencies should be curbed and his social impulses quickened so that his case may serve as a warning to others. He should be trained as a child in school, treated as a patient in a hospital, molded as an apprentice in his trade, so that he may be able to take his place as a self-supporting member of society, either in an institution under the control of others or in the outer community under self-control. As between the individual offender and society, there can be no compromise and no surrender of society to the offender. Wherever the purposes of society and the purposes of the offender cross, the offender must give way; but it is an unwise society which destroys any one of its children unless he has assailed the very foundations of society itself.

Social Control of the Offender. The following pages present in review society's agencies and methods for dealing with the offender. All are worthy of re-

spectful consideration and entitled to intelligent discrimination so that we may see beyond words and symbols which describe the realities, and discern the realities themselves. These realities are men, not monsters; disease, not demons; buildings, not caves; and evolution of good and evil, not special creation of both.

II

SOCIETY'S TREATMENT OF THE OFFENDER

The Different Purposes of Punishment. Society must deal with the individual offender. It may inflict vengeance upon him because he merits punishment. It may intimidate and punish him in order to deter others from imitating his bad example. It may aim at the reformation and rehabilitation of the offender, or it may undertake to prevent the development of offenders by vigilance, by moral training of the young, and by devising practical checks to the growth of the offending classes. These different standpoints are not mutually exclusive. They overlap. As a matter of fact, they always have overlapped.

It is a mistake to assume that the "eye-for-an-eye" and "tooth-for-a-tooth" policy once prevailed to the exclusion of all other methods of treating the offender. Careful study has shown that even from the beginning society's agents never have intended merely to wreak vengeance upon him. They assumed that punishments imposed were for the good of society. Earlier students were misled by the emphasis placed upon different points of view by their best-known contemporaries. During the Middle Ages, when, according to these earlier writers, all men were appar-

ently bent upon destroying the offender, we now know that some insisted upon kind treatment. It is a mistake to assume that these four different standpoints mentioned above, from which the offender may be treated, clearly mark out the different stages of historical development in society's treatment of the offender. There was an overlapping of methods in all periods.

Even in the days when the blood feud held sway a man might flee to any place of worship and there remain under protection of the sanctuary pending investigation of his case; and might eventually be released from this asylum provided he agreed to take up his abode with some other clan or tribe or in some other country. Even during that period when men's hands and feet were chopped off, eyes put out, tongues cut out, ears cut off, or foreheads branded for trivial offenses, other persons were treated, at the hands of a jury of their peers, with every consideration of humanity and fairness, though guilty of offenses which to-day would be considered more serious than those which resulted in physical mutilation.[1]

It would seem, therefore, that notwithstanding the fact that each century developed certain higher standards of civilization than did its predecessor, there were certain defects in the social eye by reason of which it failed to observe and appreciate the brutalities and barbarous practices which persisted in each stage of development. We see this strange con-

[1] The early jury gave testimony and adjudged the offender's case, while at the same time it passed upon his guilt or innocence. See article on jury and grand jury in the Encyclopedia Britannica, eleventh edition; also Sir James Stephen's *General View of English Law*, and Pollock & Maitland's *History of English Law*.

trast in the Church's kindly treatment of the young in the early church schools as compared with its treatment of the so-called heretics during the period of the Inquisition. We see it in the treatment of children in the English home as compared with their treatment in institutions exposed by the pen of Dickens. We see it in the shameless neglect of young men, women, and children committed to the detention prisons of England, awaiting trial for trivial offenses—unfortunates whose horrible condition was so faithfully depicted by John Howard—as compared with plans which were made for the more humane treatment of those who chose to be deported from England to Australia in order to escape the gallows.[1] Even those who presided over the Inquisition had in mind the reformation and rehabilitation of the offender brought before them, as well as suppression of the delinquency charged.

The chief difficulty with organized society's treatment of the offender always has been the neglect characterizing governmental action. While society, in dealing with individuals, has contended that ignorance does not excuse a violation of the law, society at the same time has grossly neglected the man accused or found guilty of violating the statutes and established law. This neglect has permitted the devel-

[1] It would be beside the point to develop this argument at length in this book. The reader interested in further study of these strange contrasts is referred to *A History of Penal Methods*, by George Ives, published in London, 1914; to Pollock & Maitland's *History of English Law*, published in Cambridge, England, and Boston, Mass., in 1896; to Sir James Stephen's *General View of English Law in England;* to F. H. Wines's *Punishment and Reformation*, revised edition, published in New York in 1910; to the standard histories of various countries, all of which show that vengeance has been tempered by mercy, by common sense, and by some degree of foresight in every age.

opment of extreme treatment in different directions, at different times and in different places; treatment which has called for the fulminations of a Jesus, of a Beccaria, of a Howard, of a Rommeli, and of a Dickens.

It was not wilful perversity which allowed the British detention prisons to become "pestiferous dens, overcrowded, dark, foully dirty; not only ill-ventilated, but deprived altogether of fresh air. The wretched inmates were dependent for food upon the caprice of their gaolers or the charity of the benevolent; water was denied them in the scantiest proportions; their only bedding was putrid straw. Every one in durance, whether tried or untried, was heavily ironed, all alike were subject to the rapacity of their gaolers and the extortions of their fellows. . . . Idleness, drunkenness, vicious intercourse, sickness, starvation, squalor, cruelty, chains, awful oppression and every culpable neglect—in these words may be summed up the state of the gaols of the time of Howard's visitation." [1]

Men did not take pleasure in sending men, women, and children to the gallows for almost two hundred trivial offenses, because we know they allowed deportation to be substituted for the gallows in an increasing number of cases, until the number of capital cases was reduced so that they comprehended merely the different types of premeditated murder. Men did not take pleasure in deportation, for we know that protests from the well-informed in Australia and in Tasmania met with a response in England which resulted in its gradual abandonment before the middle

[1] See article, Encyclopedia Britannica, eleventh edition, by Major Griffiths, formerly Inspector of Prisons, Great Britain.

of the nineteenth century.[1] Just so old abuses were allowed to continue in the old prisons of America because the people at large were ignorant of their existence or of their serious consequences.

Public opinion in England supported the findings of the eminent commission appointed in 1778, consisting of Sir William Blackstone, Lord Auckland, and John Howard, who initiated a general principle of prison treatment which has been almost universally adopted. It was hoped "by sobriety, cleanliness, and medical assistance, by regular series of labour, by solitary confinement during intervals of work, and by due religious instruction, to preserve and amend the lives of the unhappy offenders, to insure them to habits of industry, to guard them from pernicious company, to accustom them to serious reflection, and to teach them both the principles and practices of every Christian and moral duty." [2] Apparently people were led to believe that deportation to the colony of Australia, then being opened up, would produce the results which this commission declared should constitute the corner-stone of prison policy.

Old Correctional Institutions. Felons, misdemeanants, lepers, lunatics, orphans, even unemployed handicraftsmen, were not thrown together indiscriminately in solitary confinement in the old prisons. The modification of the old solitary prison, the workhouse or the house of correction, was developed in London in 1550; in Amsterdam in 1588; in Lübeck and Bremen in 1613; in Berne in 1615; in Hamburg

[1] See article on deportation by Major Griffiths, Encyclopedia Britannica, eleventh edition.

[2] Quoted by Major Griffiths in the article on deportation, Encyclopedia Britannica, eleventh edition.

in 1620; in Basle in 1667; in Vienna and Breslau in 1670; in Luneburg in 1676; in Florence in 1677, and in Munich in 1687.[1] The modern workhouse was developed in New York City and Albany about 1850;[2] in Detroit in 1861.

Several institutions for the delinquent young were developed at a very early period. In 1704 Pope Clement XI. founded the Hospital of St. Michael at Rome, and inscribed over the door the following:

> For the correction and instruction of profligate youth, that they who when idle were injurious, may when taught become useful to the State.

This institution was not merely a prison. "It contained a department for two hundred orphan boys and other departments for aged and infirm men and women, of whom there were over five hundred, while the number of criminal boys was only one-fifth. For the latter the plan of the institution provided sixty cells, in three tiers, one above the other, ten cells in each row, on the two sides of a spacious hall, lighted by large windows, one at the end and one at each side." This means that as early as 1704 an outside cell structure, which is demanded by prison reformers today, was developed for youthful offenders in Rome by the Pope himself.

About 1825 the State of New York established for young offenders the House of Refuge, an institution highly commended by Governor DeWitt Clinton, in

[1] Wines, F. H., *Punishment and Reformation*, revised edition, p. 115. New York, 1910.

[2] See second annual report of the governors of the almshouse, New York City, for 1850, p. 163; also Brockway, Z. R., *Fifty Years of Prison Service*, pp. 51, 68.

his message to the Legislature in 1826, in the following words:

The best penitentiary institution which has ever been devised by the wit and established by the beneficence of man is, in all probability, the House of Refuge in the City of New York, for the reformation of juvenile delinquents; it takes cognizance of vice in its embryo state, and redeems from ruin, and sends forth for usefulness, those depraved and unfortunate youth who are sometimes in a derelict state, sometimes without subsistence, and at all times without friends to guide them in the paths of virtue.

The cottage system for juvenile offenders, known as the Rauhe Haus, was developed for Hamburg, Germany, in 1833. There the young inmates were allowed to live in cottages accommodating sixteen each; and by 1853 twenty such cottages were in use.[1] In 1867 the Commissioners of Public Charities and Correction of the city of New York established an industrial school on Hart's Island, to which offenders between the ages of eight and twenty, committed to the various institutions under the Commissioners' jurisdiction, were transferred and housed in buildings which had been erected for the accommodation of officers and soldiers when that island was made a military station during the Civil War. The warden of this institution, in his first annual report in 1869, said:

From the nature of the boys whose infancy and early youth have been sadly neglected by intemperate and worthless parents, a vigorous course of discipline was necessary, which I accordingly instituted, so tempered with kindness as to present immediate and beneficial results. Of the

[1] See article on juvenile delinquency, Encyclopedia Britannica, eleventh edition.

pupils then here and since admitted it will be seen that about seventy-five per cent. were not able to read or write, fifteen per cent. able to read only, leaving ten per cent. only competent to read and write.

Although this institution had but one school-teacher, the warden spoke enthusiastically of his work and of that of the physician, who called the warden's attention to the fact that the greatest amount of ignorance existed among the older boys. These boys were not required to undergo the humiliation of the customary prison hair-cut. The warden said in his report: "Upon their admission they are thoroughly washed and cleansed, hair cut to a proper uniform length, and an entire change of under- and over-clothes given them." The sanitary conditions were indicated by the statement, "Their clothing is changed regularly every week." [1]

Fairly decent prison buildings for adults were developed at an early period. The building at Millbank, England, was developed in 1813; [2] Auburn State Prison in New York was established in 1816; [3] and the new State Prison at Sing Sing, created by act of the New York Legislature in 1825, was built with prison labor by Captain Lynds [4] in succeeding years. The new Connecticut State Prison at Wethersfield was occupied on September 28, 1827.[5]

From a structural point of view these institutions were a marked advance. The British detention prisons which preceded Millbank have already been described.

[1] Tenth annual report of the Commissioners of Public Charities and Correction, city of New York, 1869, pp. 332, 333.
[2] See article on prisons, Encyclopedia Britannica, eleventh edition.
[3] Wines, F. H., Op. Cit., p. 149.
[4] Wines, F. H., Op. Cit., p. 150.
[5] Brockway, Op. Cit., p. 23.

The old Connecticut State Prison, called "Newgate," was originally the Sinsbury Copper Mine, worked at intervals prior to the Revolution. Abandoned as a mine, it was used by the colony of Connecticut in 1773 as a permanent prison for Tories sent there by the State military authority. In 1790 it was made the State prison and continued as such until 1827.[1] Richard H. Phelps described this prison in the following language:

The appearance of this place forcibly reminds the observer of the walls, castles, and towers erected for the security of some haughty lordling of the feudal ages; while the gloomy dungeons within its walls call to remembrance a bastile or a prison of the Inquisition. . . . Some rude buildings covering access to the caverns were constructed with an enclosure of half an acre or so built of planks with iron spikes upon the top. The passage down the shaft into the cavern was upon a ladder fastened upon one side and resting on the bottom. At the foot of this passage commences a gradual descent for a considerable distance, all around being solid rock or ore. The passages extend many rods in different directions, some of them even leading under the cellars of the dwellings of the neighborhood. . . . On the sides in the niches of the cavern, platforms were built of boards for the prisoners, on which straw was placed for their beds. The horrid gloom of this dungeon can scarcely be realized. . . . From thirty to one hundred were placed together through the night, solitary lodging as practised at Wethersfield afterwards being then regarded as a punishment rather than a blessing to them. The punishments inflicted for prison offenses were flogging, confinement in stocks in the dungeons, being fed on bread and water during the time, double or treble sets of iron, hanging by the heels, etc. A bell summoning the prisoners

[1] Wines, F. H., Op. Cit., p. 147.

to work brought them up from the cavern beneath through a trap-door, in irregular numbers, two or three together, and sometimes a single one alone, when under guard of armed soldiers they were conducted across the yard to the smithy. The prisoners were heavily ironed and secured by fetters, and being therefore unable to walk, made their way by jumps and hops. On entering the smithy some went to the side of the forges, where collars dependent by iron chains from the roof were fastened around their necks, and others were chained in pairs to the wheelbarrows. The attendants delivered pickled pork to the prisoners for dinner at their forges, a piece for each thrown on the floor, and left to be washed and boiled in the water used for cooling the iron wrought at the forges. Meat was distributed in a similar manner for breakfast.[1]

The county penitentiaries in New York State, all of which were established before the Civil War, were vast improvements structurally over the county jails and other institutions to which offenders had been committed in the State of New York, although in government and discipline they left much to be desired. Even the farm type of prison for adults is not of recent development. It is the logical outgrowth of convict settlements in the American Colonies, and of the agricultural settlements of Australia and Tasmania.

The Question of Discipline. In the matter of government and discipline notable advances were made in various parts of the world before the Civil War. In the old convent of Valencia, Spain, Colonel Montesinos developed a prison on the military plan, where five hundred inmates were divided into companies whose inferior officers were convicts. He encouraged every convict to learn one of the forty different trades

[1] Brockway, Z. R., Op. Cit., pp. 24–25.

taught in the prison, and required boys under twenty to attend the prison school one hour daily. Under this plan inmates could reduce their terms one-third by good conduct.

In Munich, Obermaier made over the discipline and placed a convict superintendent in charge of the shops. The result was that only about seven per cent. of those confined at Kaiserslautern, and only about ten per cent. of those confined at Munich, relapsed into crime after their discharge.

In 1840 Captain Alexander Maconochie of the Royal Navy became superintendent of the prison work in Van Dieman's Land. He found the men in a state of dreadful depravity. Their condition led him to establish the mark system as an alternative to wages, so that a man could earn his earlier release through production and improvement. The change wrought by this system was thus expressed by Maconochie: "I found Norfolk Island a hell, but left it an orderly and well-regulated unit."

Sir William Crofton, when appointed director of the Irish convict prisons, adopted this mark system and under it developed extraordinary prison work.[1]

While the farm-colony prison, as has been shown, is not of recent origin, at the present time great emphasis is placed upon the necessity for the development of this type of institution for care and treatment of the offender. In 1865 Gaylord B. Hubbell, warden of Sing Sing Prison, at his own expense made a thorough study of the English and Irish prisons. The twenty-second annual report of the New York Prison Association contained an article

[1] For a fuller description of Crofton's work, see Chapter IX.

in which he sketched his conception of the best way to introduce the Irish prison system in America. He proposed the purchase of a farm of two or three hundred acres on the line of the Erie Railroad and the erection there of a prison to be organized in three divisions, each division to have a special discipline. The first division he would have in solitary or separate confinement. The second division would work in association through the day, but would be separated by night; in that the mark system would be enforced. In the third division, with associated dormitories and no wall, all arrangements would be such as to give the largest possible freedom to the inmates. He suggested further:

"A careful system of classification of prisoners should be made, based on marks honestly given according to their character, conduct, industry, and obedience. For it must be remembered and never forgotten that a classification system of association without marks and without impressing on the prisoner's mind the necessity of progressive improvement, is of little value. All persons sent to the proposed establishment should, under proper restrictions, be allowed to work their way up. . . . The Maconochie mark system, the gratuities, the school-teaching, the library, the course of lectures, competitive examinations, debates . . . should all be introduced here as well at least, and in my opinion much better, than in Ireland." [1]

The Criminologists. Most of the institutional treatment to which I have called attention was based

[1] Twenty-second Annual Report of the Prison Association of New York, and Appendix IV for Warden Gaylord B. Hubbell's description of the Irish system, with recommendations for its adoption in America.

upon the eighteenth century theories of equality. These theories assumed that men were endowed by nature with equal ability; that a man was a creature of free will who could choose to do right or wrong, and who should enjoy or suffer the consequences of his choice. These theories were attacked by a school of thinkers led by the great Italian savant, Lombroso, who claimed they had discovered a criminal type, the "instinctive" or "born" criminal, a creature who had come into the world predestined to evil deeds and who could be surely recognized by certain stigmata—certain physical, even moral, birthmarks, the possession of which, presumably ineradicable, foredoomed him to the commission of crime. These traits were defined as follows:

Various brain and cerebral anomalies; receding foreheads; massive jaws; prognathous chins; skulls without symmetry; ears long, large and projecting (the ear *ad ansa*); noses rectilinear; wrinkles strongly marked, even in the young and in both sexes; hair abundant on the head, scanty on the cheeks and chin; eyes feline, fixed, cold, glassy, ferocious; bad, repellant faces. Much stress is laid upon the physiognomy; and it is said that it is independent of nationality; two natives of the same country do not so nearly resemble each other as two criminals of different countries. Other peculiarities are: Great width of the extended arms (*l'envergure* of the French); extraordinary apelike agility; left-handedness as well as ambidexterism; obtuse sense of smell, taste, and sometimes of hearing, although the eyesight is superior to that of normal people. "In general," to quote Lombroso, "the born criminal has projecting ears, thick hair and thin beard, projecting frontal eminences, enormous jaws, a square, protruding chin, large cheek-bones and frequent gesticulation." So much for the anatomical and physiological or mental char-

acteristics, so far as they have been observed. Moral insensibility is attributed to him, a dull conscience that never pricks, and a general freedom from remorse. He is said to be generally lacking in intelligence, hence his stupidity, the want of proper precautions both before and after an offense, which leads so often to his detection and capture. His vanity is strongly marked and shown in the pride taken in infamous achievements rather than personal appearance.[1]

Investigation has cast very serious doubt upon the correctness of the findings of the so-called criminologists. So far as their claims relate to the discovery of the born criminal, their inquiries were not sufficiently comprehensive. The physical and other peculiarities to which Lombroso and his followers call attention are not peculiar to the so-called criminal. They now are believed to be more or less characteristic of the classes of society from which the criminal is usually recruited. The result of Sir Charles Booth's investigations in London contained popular descriptions of people who bear the same stamp of physical and mental inferiority. The studies of Dr. William Healy, Dr. Edith R. Spaulding, Dr. Mabel Fernald, and others, throw grave doubt upon the pronouncements of Lombroso and his school. The findings of these later investigators go far to discredit the theory of heredity in crime.[2]

[1] See article on Criminology, Encyclopedia Britannica, eleventh edition. In Italy Lombroso was supported by Colojanni, Ferri, Garofalo; in France by J. A. Lacassagne, and Van Hamel, the Dutch authority, gave the author qualified approval.

[2] See Healy, William, *The Individual Delinquent*, published by Little, Brown & Co., Boston, 1915; also Spaulding, Edith R., M.D.; Healy, William, M.D., "Inheritance as a Factor in Criminality," a study of a thousand cases of young repeated offenders. Bulletin of the American Academy of Medicine, vol. xv, No. 1, February, 1914.

The criminologists and their successors, however, have been responsible for a revolution in society's treatment of the offender. They awakened society to a realization of the seriousness of the problem of the delinquent. They emphasized the necessity of co-operation by all governmental agencies dealing with him—the hospitals, the almshouses, the insane asylums, the police, the courts, the prisons, the reformatories and industrial schools, and the health authorities. Investigation stimulated by them has been taken up by the sociologists, who have called attention to the many maladjustments incident to developing industrial and social conditions. These have tended to emphasize the offender's lack of responsibility for his shortcomings. Some of these so-called sociologists have joined with the old criminologists in denying the doctrine of free will, but have set up the doctrine of economic interpretation of history, pursuant to which they attempt to explain all sociological phenomena, including crime and the criminal. According to them the offender is forced into a life of crime by the circumstances of his environment, which are superior to any counter force he can exert.

Prison Reform From Within. Some have held that prison reform to be successful must come from within correctional institutions. On the other hand, pessimists hold that little or nothing can be hoped for if reform is left in the hands of those schooled in what they call "the old methods." Prison reform from within supported by an intelligent public opinion undoubtedly is to be preferred to prison reform forced upon experienced institutional executives as a result of the fulminations of inexperienced persons and of well-meaning and public-spirited citizens. Prison

people point with pride to their declaration of principles adopted at the Cincinnati Meeting of the American Prison Association in 1870. The declaration opens with the statement that "the supreme aim of prison discipline is the reformation of prisoners." The declarations of that Conference may be summarized as follows:

1. A progressive classification of prisoners should be developed, based upon character and conduct.

2. Rewards for faithful services are to be preferred to the infliction of punishment for violation of institutional rules.

3. The indeterminate sentence plan should be developed and should be limited only by satisfactory proof of reformation.

4. Prison schools should be developed, as education is a vital force in reformation.

5. Work should serve as the basis of prison discipline.

6. Contract labor should be abolished, as it is prejudicial to discipline and to reformation.

7. Separate institutions should be developed for the incorrigible, the untried, the younger criminals.

8. The imposition of repeated short sentences upon minor criminals is a practice which should be discontinued.

9. Corrective or preventive institutions for juvenile delinquents, including truant homes and industrial schools, should be developed.

10. More systematic and comprehensive methods should be employed for dealing with discharged prisoners.

11. A person wrongfully imprisoned should be indemnified by the State.

12. A responsibility rests upon society to improve conditions that beget, foster, and encourage crime.

13. Parents should be required to provide for the full or partial support of their delinquent children in schools and reformatory institutions.

14. All prisons within a State should be constructed and managed by the State in order to secure a complete system of reformatory institutions to which inmates could be distributed by some central authority.

15. Religion is one of the most important of all reformatory agencies.

Substantial progress has been made since 1870 in carrying out this program, but even the most enthusiastic would not assert that this progress has been sufficient or what experienced prison men were justified in expecting, when these principles were formulated. Our prison schools are of little value. The principle of indemnification for wrongful imprisonment has not been adopted. Parents have not been made to pay as frequently as they should for the care of their delinquent children in schools and reformatories. The indefensible system of short sentences for repeated offenders still continues. We have failed to establish definite unified prison systems in our various States. Commendable progress has been made, but too little attention has been given to improvements in social conditions.

Social Reformation and Correctional Work. The connection can be traced between the progress of social reform in England and the progress of prison reorganization. In America, in the period between 1830 and 1850, decisive steps were taken in the development of the United States as a nation. This period has been characterized by Prof. John R. Commons as the "hot air period" of our nation's development. It was a period when liberal ideas held sway, when social experiments were undertaken. The recrudescence of liberal feeling during the early part of the nineteenth century swept around the world, pro-

ducing our own great Western Movement with resulting vast changes in the United States; producing great reform bills in England; the revolutionary changes in France; the popular uprisings in Germany and in Scandinavian countries; the Civil War and reconstruction in America; the outflow of capital and enterprise from Great Britain to her various over-sea dominions; later the Franco-Prussian War with resultant changes in Europe and in the Near East—all of which occupied the attention of the peoples of these countries to the exclusion of consideration of local government. As a consequence prisons were all but forgotten. Interest in them was awakened as a result of the great humanitarian movements which have produced reconstruction of our local and national governments since 1890.

These different humanitarian and nation-building movements are undoubtedly the outgrowth of fundamental social conditions which have caused men to change their point of view and their fundamental interest. These movements have centered upon great personalities capable of great leadership. While these leaders have been discussing fundamental social questions, it is but natural that prisons and institutions should command their share of attention. Inquiries as to the organization of State and local government have utilized prisons and correctional institutions as concrete examples of different types of government, which must be visualized and described in the concrete in order to be fully understood. This has awakened new interest in these institutions themselves, and has called attention to the vital differences between their development of government and discipline and that which is char-

acteristic of government, State and local, organized by society.

Thus people generally seem to be more interested in government and discipline of institutions than they are in the vital questions of institutional organization and management. It appears to the prison administrator that the outsider regards government and discipline as ends in themselves, whereas from the administrator's point of view government and discipline are only means to an end—that is, the proper management of the institution and the final release of the prisoner in a fit condition to be returned to society as a self-supporting, self-controlled member of it. Consequently, the prison administrator is more interested in doctors, in medicine, in food, in sanitation, in school work, in productive work, in character building, and the like, than in government and discipline. He has regarded discipline as a means of preserving order and getting ahead. He has not regarded the discipline and the form of government as of such vital significance to the prisoner as are the things just enumerated. For example, as long as discipline was good and abuses were not too apparent, the trained institutional administrator would not quarrel over the question whether this were brought about by more or less inmate participation in the government; whereas it sometimes seems that the prison reformer would rather have his theories of government exploited in the institution, even though poor results were achieved in the other fields, than to have an out-of-date system of government applied where much better results were being achieved in the other fields.

While the system of government is undoubtedly

important as a reformative force, it must yield first place at least to the personality of the institutional superintendent. A poor warden or superintendent cannot operate even the best system successfully, whereas a good warden or superintendent with strong personality may be able to produce commendable results with a poorer system. It is apparent, therefore, that prison reorganization cannot be effected merely by changing the form of government and discipline. Even the best warden in the world, with the greatest personality, cannot secure desired results without the co-operation of other agencies—which must be vitally reconstructed if best results are to be obtained. It is to these agencies and institutions that we must now give our attention.

III

THE COURT AND THE OFFENDER

The Court, Society's Bulwark. The court has rightly been described as society's bulwark, its main line of defense against the low cunning and stealthy deceit of the offender. Behind it are massed all the orderly forces of government. The judge presiding has been properly likened to an all-wise physician, who, within prescribed restrictions, diagnoses the offender's case, amputates a limb or administers a sedative or a stimulant, according as the facts warrant. In our country, however, we ought to perceive that the judge's task is made unreasonably difficult by the restrictions society has imposed upon him—the binding limitations of the Constitution and the laws, the pressing weight of custom and the legal blinders which shut out much of the truth about the offender. Society, thus fettering the judge and the jury with restrictions, until recent years has all but demanded omniscience of both, and has apparently granted power with one hand only to take it away with the other. It has imposed upon the court the double duty of protecting society and protecting the rights of him who is accused of transgression, but has failed properly to correlate these at times conflicting duties.

The process of convicting an offender and of sentencing him to jail is divided into two distinct and separate parts. He is first tried, either before a judge or a judge and a jury, and is declared guilty or innocent. If he is found guilty, judgment is then pronounced upon him, the sentence always being determined by the judge, unless otherwise provided by statute.

Establishment of Guilt or Innocence. The criminal procedure in this country is almost entirely based on the common law procedure of England. There is, therefore, such a similarity in the procedure in many States and counties that a description of the criminal courts in New York City will, to a large extent, cover criminal courts in other parts of this country.

For reasons of obvious convenience, the criminal courts in this city are divided into two classes—the Supreme Court and the Court of General Sessions, for the trial of the graver offenses, and the Court of Special Sessions and the Magistrates' Court for the trial of minor offenses.

Inferior Criminal Courts: The City Magistrates' Court. The lowest criminal court is known as the City Magistrates' Court. This court has jurisdiction of offenses which are not of the grade of misdemeanors, *e.g.*, drunkenness, breach of the peace, vagrancy, etc. In certain enumerated cases the city magistrate may, however, sit as a Court of Special Sessions for the quick disposition of misdemeanors, which are usually tried in the Court of Special Sessions. An offender is brought before the Magistrates' Court either by a summons or a warrant. These are only issued after a complaint has been filed in the court by some citizen or police officer. After a defendant

is brought before a magistrate, the magistrate proceeds to hear the complainant and other witnesses for the prosecution and then takes any testimony which the defendant wishes to offer. In a large number of the cases tried in this court the defendant is not represented by counsel and the judge therefore must endeavor to bring out all the facts possible. Having heard both sides, the judge then finds the defendant either innocent or guilty. If he finds him guilty, the magistrate then pronounces judgment, which may vary from a suspended sentence to imprisonment in a reformatory for a term of three years, according to the nature of the offense and the surrounding circumstances.

Offenders who are accused of graver crimes may also be arraigned before a magistrate. It is then his duty to decide whether to hold the defendant for the Court of Special Sessions, to send his case to the Grand Jury, or to discharge the defendant.

Court of Special Sessions. The Court of Special Sessions has jurisdiction to hear all charges of misdemeanors committed within the city of New York, except charges of libel, unless before the commencement of the trial a Grand Jury has presented an indictment for the same offense or a judge, authorized to hold a Court of General Sessions, has certified that it is reasonable that such charge should be prosecuted by indictment.

All trials in the Court of Special Sessions are without a jury and are held before three justices. Before a defendant can be brought before this court his case must first be heard by a magistrate. If the magistrate finds that the facts establish a *prima facie* case against the defendant, he sends the papers to the

district attorney. The district attorney then files an information with the court, which contains the title of the action and a plain and concise statement of the act constituting the crime. The court then sets a date for the trial. At the trial, the State is represented by an assistant district attorney, and the defendant is usually represented by a lawyer. The State opens the case and presents its witnesses and is then followed by the opening of the defense and the presentation of its witnesses. After the case is closed, the three judges consult before handing down a verdict. If the defendant is found guilty, the court may either sentence him immediately or remand him for a week while his case is investigated by a parole officer.

A separate division of the Court of Special Sessions is known as the Children's Court. As a rule, a case here is heard by only a single judge and is of a very informal nature.

The Higher Criminal Courts. The higher criminal courts in the city of New York are the Criminal Term of the Supreme Court and the Court of General Sessions. As the practice and jurisdiction in these two courts is virtually the same, a description of the trial of a defendant in the one court will cover a trial in the other.

The cases tried in the Court of General Sessions are all of a graver nature. All felonies, *i.e.*, a crime punishable by imprisonment in a State prison, and misdemeanors for which a Grand Jury has brought in an indictment, are thus tried.[1]

[1] Under the laws of Ontario, juries may be dispensed with in certain cases, even though these cases be serious. Riddell, William Renwick, Justice of the Supreme Court of Ontario, "Jury System in Ontario, an Address at the annual meeting of the New York State Bar Association," 1914.

Before a defendant can be tried in this court, the Grand Jury must bring in an indictment. The Grand Jury consists of not less than sixteen and not more than twenty-three persons. It is the duty of the Grand Jury to consider whether the defendant shall be required to run the gamut of judge, jury, and court procedure. As a rule, it only considers such crimes as are presented to it by the district attorney, but it also has power to investigate independently. It is not bound to hear evidence submitted for the defendant, but it is its duty to weigh all the evidence submitted, and when it has reason to believe that other evidence within its reach will explain away the charge, it should order such evidence to be produced. If at least twelve of the grand jurors believe that all the evidence taken before it, if unexplained or uncontradicted, warrants a conviction by the trial jury, they then bring in what is known as an indictment which is indorsed "a true bill." The indictment contains the title of the action and a plain and concise statement of the act constituting the crime. When an indictment is filed the defendant must be arraigned before the court in which it is found; if it is for a felony, the defendant must be personally present, but if for a misdemeanor only he may appear by counsel. The arraignment consists in stating the charge to the defendant and in asking him whether he pleads guilty or not guilty thereto. If the defendant pleads not guilty, an issue of fact arises which must be tried by a jury.

A trial jury consists of twelve jurors who must find a unanimous verdict before a defendant can be declared guilty. After the jury has been impaneled and sworn the district attorney opens the case and

offers evidence in support of the indictment. The defendant may then open his defense and offer his evidence in support thereof. The parties may then offer rebutting testimony. When the evidence is concluded, unless the case is submitted to the jury on either or both sides without argument, the defendant must commence and the district attorney must conclude the argument to the jury. The court then charges the jury, instructing it that it is the sole judge of the facts, but must take the law to be as stated by the court. The jury then withdraws to consider its verdict. If the jury finds the defendant guilty, the question of the sentence to be imposed is left entirely with the judge. If the jury finds the defendant innocent, he is of course immediately discharged.

Weaknesses of the Present System. An inferior court must be inferior only in the class of cases which it tries, and not in the personnel of its judges. In this respect the inferior courts of New York City have vastly improved in the last few years. The increased respect in which the Magistrates' Court is now held is due almost entirely to the improvement in the character of those judges. The vast number of cases which are considered by them and their importance to a great class of our citizens requires that a man of good sense, of trained reason, and experienced in many cases should preside. The usual American plan of trial in the first instance by a magistrate, followed, since he is not trusted, by a retrial in a higher court on appeal, is indefensible. The highest court does not require better judges than the lowest, when the lowest is given effective powers of doing justice.

These courts also should be run with all the dignity of a higher tribunal. In many cases our inferior

courts are housed in surroundings which do not tend to increase the respect for law. A noisy, crowded court-room inevitably reacts upon a defendant, who thereby fails to realize the true majesty of the law. In this respect the impressiveness of the English courts should be our model.

Lack of Uniformity of Treatment. As the justice dealt out in our inferior courts depends entirely on the individual judges, it is necessary that there should be some uniformity in their judgments. Vital differences of opinion are expressed and acted upon at present by these judges as to the principles which should regulate sentences. We see sentences vastly differing in their severity inflicted for the same offense committed under circumstances of the same gravity. Playing upon the eccentricities of the trial judge has become a sport or a game little less exciting than the planning and committing of crime. Recent investigations of conditions in the Magistrates' Court of New York City have disclosed that even lawyers practising in these courts have carefully studied each magistrate to ascertain his peculiarities, his hobbies, his methods of work, and his habits of mind; and such lawyers feel able to predict how each magistrate will treat any case that may be brought before him. As a consequence, an offender is instructed how to act. If a stern magistrate is sitting in the night court for women, the offender is told to secure bail if possible, and to await a magistrate who does not send every woman offender to a reformatory, or to a home for three years. She may even be induced to jump bail for a time, only to have her bondsmen surrender her when conditions at the court are more favorable for trial and sentence. It has been reported that women

of the street fail to commit offenses when certain magistrates are sitting in their districts, as they wish to avoid commitment to a reformatory or a home for a long period; whereas a little later they may persuade the court that, as "first offenders," they need only be fined, or should be placed on probation.

Discussions by offenders committed to prison indicate their lack of respect for lawfully constituted authority. One judge is set down as hard and flinty, a man before whom it is useless to weep and "throw a fit." Another is declared to be a man who will surely be affected by the "soft stuff" if enough of it be used. A third is noted among the offenders for his fatherly interest in their future, because he wishes to send them to a home where they may have the advantages of "family care" for a long time. Still another is said to be a good fellow because he wishes to increase the teachers' pension fund through the medium of the fines paid by the women of the street.

The judges of these courts should make an attempt to approximate their sentences in cases where the facts and general surrounding circumstances are similar. As tersely stated by Victor Cousin in his preface to the *Gorgias* of Plato, "Punishment is not just because it deters, but it deters because it is felt to be just." If one woman is sent to a reformatory for three years for an offense for which another woman is paroled, their respect for the law will not thereby be increased.

Traditional Restrictions. Our present system does not sufficiently take into consideration the tremendous advance in civilization that has taken place in the last hundred years. The courts are no longer means by which a king may practise tyranny over his sub-

jects. No longer are our courts used for religious persecution, or for the defense of a favored patrician class. To continue practices which were purposely created for the protection of a defendant irrespective of his guilt or innocence is a surrender to historical form. Substantial justice is thereby sacrificed on the altar of reaction.

An example of this subserviency to historical rather than present-day reasons is our failure to give a judge sufficient power. As an officer of the court, who has presided at the trial of innumerable offenses, he is in a position to understand many points which necessarily confuse a jury. A judge should be allowed to state his opinion of the facts brought out in court. By a clear charge, which would not only state the law to be followed by the jury, but would also give the jury the aid of the judge's opinion on the facts, he would thus be able to restrain, in a large measure, the arbitrary actions of many of our juries. We have failed to realize that the composition of a jury in one of our metropolitan cities is no longer the same as the composition of a jury in a rural settlement in the early part of the nineteenth century. In many cases our juries are largely composed of men of foreign birth or parentage.

Dean Roscoe Pound, of the Harvard Law School, in a brilliant article published a few years ago, summarizes this change:

To sum up, our American common law polity presupposes a homogeneous population, which is jealous of its rights, zealous to enforce law and order, and in sympathy with the law and with the institutions of government. It presupposes a public which may be relied upon to set the machinery of the law in motion when wrong is done;

a people intrinsically law-abiding, which for the most part will conform to rules of law when they are ascertained and made known; so that the chief concern of courts and of the State is to settle what the law is, and a people which may be relied upon to enforce the law intelligently and steadfastly upon juries. In other words, our common law polity postulates an American farm community of the first half of the nineteenth century; the situation as far apart as the poles from what our legal system has had to meet in the endeavor to administer justice to great urban communities at the end of the nineteenth and in the twentieth century.[1]

The courts are also hampered by laws of evidence which to a large degree were designed to protect the accused from tyranny. These have limited still further the court's discretion and decreased its sway. Apparently society has adopted the principle of the refinery, and believes that the pure and unadulterated truth can be discovered by subjecting the raw product to the tortuous process of distillation. To some extent it is necessary to exclude extraneous matter which might influence a jury by playing upon its passion, or by distracting its attention from the main point at issue, but arbitrarily to enforce all such rules of exclusion works an injustice in many cases, both to the accused and to the State. A judge should be given broader powers to decide what testimony ought to be admitted and what testimony should be refused.

Established in these rules of evidence there is one privilege which is of inestimable value to the guilty person, and which has been responsible in many cases

[1] Pound, Roscoe, "The Administration of Justice in the Modern City," published in the *Harvard Law Review*, vol. xxvi, pp. 309, 310, Cambridge, Mass., 1913.

for an unjust acquittal. This is the rule that no person shall be compelled in any criminal case to be a witness against himself. In an address entitled, "The Lawyer Citizen: His Enlarging Responsibilities," delivered on July 27, 1916, Samuel Untermyer, of the New York Bar, said:

> The ancient rule that the defendant cannot be compelled to incriminate himself should be abolished. It also served a useful purpose in the olden days, but has long since been outgrown. It is a prolific cause of unpunished crimes. There is no good reason to-day why the commission of a crime should not be proved out of the mouth of the defendant. It is often the only way in which it can be established, especially in complicated cases such as those arising under the banking and anti-trust laws.

In the twentieth century a court no longer uses torture to force an accused to answer a question, nor are cases tried in secret before judges who carry out the arbitrary mandates of a king. The English Star Chamber has been abolished, and with it the main objection to the compulsory examination of a prisoner. Our courts are now conducted in the open, and all men can tell whether or not an injustice is being perpetrated. The rules which were justified by contemporary facts in the eighteenth century are now a hindrance to justice in the twentieth.

Frequent Appeals. An appeal from a decision in the Magistrates' Court is heard by the Court of General Sessions. An appeal from a judgment in the Court of Special Sessions, or the Court of General Sessions, is first heard in the Appellate Division of the Supreme Court, unless the judgment is one of death, in which case the Court of Appeals considers it immediately.

There has been too great a willingness on the part of our Appellate Courts to reverse convictions on technicalities. Such a reversal only breeds a contempt of the law in the criminal classes. Justice, to be effective, must not only be sure, but it must also be swift. To enable a defendant to drag out his case by means of technical reversals to a large degree destroys the efficacy of punishment. The main purpose of punishment—the deterrent effect on the general population —is thus lost.

Faulty Administration. Some of the shortcomings of our courts are due to difficulty in administration where the law has provided arbitrary classifications. While these classifications may be necessary from the standpoint of the court and the practising and prosecuting attorney, the necessity does not make it easier to make the punishment fit the crime instead of the individual. This is made particularly apparent when we consider the difficulties which arise in administering such laws. It is difficult for the offender and many others to appreciate why a man who steals $50.01 should receive severer punishment because he is guilty of an offense called grand larceny, and another man who steals $49.90 should receive lighter punishment because he is guilty of an offense called petit larceny. It is not the fault of the one that the handbag he stole contained the larger amount, nor is it to the credit of the other that the roll of silk he took from a trunk was worth only $49.90. It may not be any mitigation of grand larceny that it was committed in broad daylight, neither should petit larceny necessarily be considered a worse offense because it was committed after sundown. A wise criminal is not less a criminal because he merely stands at

the outside door of a loft while a young man and his old father, without previous criminal experience, climb the stairs, force a door, tie up bundles of silk, and bring them down-stairs, only to be caught by the police and charged with burglary, while the wise thief on the outside can only be held for examination as a suspicious person.

The young man arrested as he attempts to unlock an apartment door with a wire with the full intention of stealing is not necessarily less a thief than if he were caught within the apartment, with the goods packed ready to be carried out.

The crime of rape is not necessarily a less serious crime because the offender has made a mistake of a year or two in the age of the victim; certainly not as a rule so far as the seriousness touches the moral obliquity of the offender.

The offender naturally considers his moral responsibility for his crimes from the standpoint of his actual responsibility, no matter what he claims when he is attempting to escape responsibility for them. He well knows that punishment designed to fit the crime seldom does so, and he is not convinced that justice is even-handed when the lawyers point out to him the fact that under a government of laws he is to be judged by his action and not by his intentions, except in so far as his actions help to explain what his intentions must have been. Obviously our laws and agencies of government must deal with the offender as an individual rather than with crime as a product of the activities of criminals. While it may be that we never can entirely escape from the necessity of some such classification as that laid down by the criminal law without substituting the arbitrary caprice of the judge

or the jury for the law, it must be understood by all careful students of the problem that the individual offender must be studied from every point of view, so that the punishment may be made to really fit the individual offender.

Government Divided Against Itself. A division of the government into departments, where each is responsible for definite functions, has its advantages. It also has serious disadvantages. When the prosecutor's office is in the hands of one political party, and the police authority is in the hands of another, there is serious danger that excess of zeal may interfere with the proper and orderly presentation and prosecution of cases in court. These are difficulties which may be dealt with by the community and finally corrected. The division of authority, however, opens the way for such segregation of bits of information in different departments as will seriously interfere with the piecing together of the story so as to make an effective whole. For example, much information in the form of confessions or statements is always to be found in the files of a prosecuting attorney's office; but oftentimes there is neither time nor opportunity to make this information available to other independent agencies of government. Hospital records detailing treatment given to defendants are theoretically accessible, but in the modern city they are practically all but inaccessible. As government to-day is constituted and operated it is virtually, while not actually, impossible to secure information concerning the character, habits, work, and ability of particular offenders previously committed to charitable and correctional institutions.

Each police department, each prosecuting attorney's

office, each court, each hospital, each correctional or charitable institution—indeed, each probation department, and frequently each probation officer—has independent records which cannot be made available for use at the time required. In fact, until a recent date the correctional institutions of the city of New York received inmates whose previous history was unknown to them, although probation officers, paid with the people's money, had furnished the court in each case with a long detailed report of the prisoner's life, his activities, and his environment, a duplicate of which should have been forwarded to the correctional institution receiving the offender.

There is often a serious breakdown within a department which prevents proper utilization of records in that department. For example, the police patrolman assigned to a definite district usually acquires a wealth of information concerning the character and habits of delinquents frequenting the neighborhood; information which never is made readily available in routine to the detective assigned to investigate special cases where these delinquents are under supervision. Until recent date it has been impossible for the higher criminal courts to obtain complete information concerning the treatment of particular offenders in the lower criminal courts. The lack of proper sorting and recording has been so obvious as to be almost notorious.

Congested Calendars and Prisons. Congestion of calendars and of prisons compels a judge to take action in many cases despite a feeling that he lacks vital information which should contribute to a decision. He knows, however, that delay would be unfair to the defendant inasmuch as it would require

him to lie in a detention prison for an additional period which the statute would not permit the court to consider in imposing sentence. Again, delay would further congest detention prisons and retard the work of the courts, probation officers, police, and prosecuting officials. Congestion of prisons and retardation of work cannot be countenanced to-day in the modern city, where two prisoners, be they bankers, thieves, physicians, or professional gamblers, are too frequently forced to occupy a cell built for one person, until final disposition of their cases.

In the city of New York during the summer of 1914 the courts were compelled to take cognizance of the congestion in the Tombs Prison. They sat very often for extra hours in the evening, and accepted pleas of guilt from a host of offenders. This meant that some serious offenders were allowed to plead guilty to lesser offenses and to receive a lesser punishment because they did so. Extra parts of the criminal courts were provided in 1915 and in 1916, with similar results. It is permissible under the law for the court to accept pleas of guilt, because acceptance avoids the expense of protracted trials, and the defendant escapes long incarceration in a detention prison while awaiting trial and the danger of ultimate conviction and a long sentence.

It cannot be said, however, that this sort of action is entirely satisfactory. On the whole, it does not increase the offender's respect for the courts and the law. It is too much like making justice the handmaiden of necessity. Additional prisons should be built, and more courts should be provided, as temporal conditions should not be allowed to interfere with processes the results of which have the effect of finality.

Faulty Identification. One of the chief lanes in our criminal procedure through which many a criminal has walked to safety is the lack of adequate identification records. These are among the prime essentials. The popular feeling that there is something debasing in them has prevented their wide use, and therefore has been largely though indirectly responsible for shortcomings in our courts and correctional institutions. It is well known that a long criminal record which may be telegraphed about the country is one of the greatest obstacles to a successful criminal life and consequently one of the greatest preventives of crime. Old offenders will plead guilty to a lesser offense and face the judge with hope of leniency rather than face a jury for the greater offense, knowing that their criminal records will be exhibited as part of the evidence in support of the indictment. The influence of a faultless identification system is quite as great as the influence of proper treatment in proper correctional institutions.

Much opposition to finger-print and other systems of identification has appeared in the underworld, or among those dependent upon the underworld either for a living or for position in public life. Their arguments sometimes are reinforced by a certain feeling on the part of the people at large that there is some necessary and direct connection between finger-prints and crime. Therefore, when the denizens of the underworld raise the question of the "sacred" Constitution and "the eternal principles of right and liberty won at such cost from base tyrants," they win more or less sympathy from the public, because the public has not been sufficiently informed as to how far crime is aided by faulty identification records.

There should be less objection to finger-prints than to any other form and method of identification. A man's handwriting or name on the permanent records of the court may be read by nearly all men; his picture placed in the Rogues' Gallery may be recognized by thousands; but a finger-print can be deciphered only by an expert. Even if a man be brought before the finger-print expert he cannot be identified until the expert again takes his finger-prints and compares them with those already on file, which means that even the expert cannot abuse the information previously intrusted to him.

It has been demonstrated again and again that young offenders committed to institutions for disorderly conduct and other minor offenses believe that such charges are not serious. They have been led to this view by the easy-going methods heretofore practised in the inferior courts. They have been able to lie successfully about their identity. The blighting effect of successful hiding of identity generally falls upon the young offender, who thereby is led to regard such lying as a light matter and minor offenses as of little consequence; whereas if his finger-prints were taken, and he were made to feel that another falsehood as to identity, or another offense of any kind bringing him into court would result in serious consequences, he would not allow himself to drift easily into a criminal life.

There is every warrant in law and in experience for dealing firmly and intelligently with the young offender, particularly in view of the fact that more than fifty per cent. of our offenders are under twenty-four years of age—if we leave out of consideration all cases considered in the Children's Court. The percentage

over sixteen and under twenty-four is nearly fifty per cent., whereas fifteen years ago the men committed to the State prisons and county penitentiaries were usually from thirty to forty-five years of age.

No constitutional right is involved in taking the finger-prints of persons brought to court. Section 6, article 1, of the Federal Constitution, says:

"Nor shall he be compelled in any criminal case to be a witness against himself."

If this provision of the Constitution be interpreted to mean that the Constitution interferes with society establishing the identity of an offender brought into court, then the law becomes a shield behind which the guilty may hide and with impunity mock all attempts to reform them. It becomes an instrument by which the exploiter of vice may deprive his victim of the correctional aid offered by the State.

Such an interpretation of the Constitution would make the State an ally of one who lives upon the proceeds of vice and crime, for the reason that occasional imprisonment of his victim means only temporary loss, whereas complete reformation means financial disaster.

There are two grounds upon which a person's right not to be witness against himself may be based. The first is that the testimonial evidence which is forced by inquisitorial methods is apt to be false, because the witness's powers of resistance may have been broken down. The second is that the idea of torture is abhorrent to the Anglo-Saxon mind. The taking of a finger-print is not likely to be false, even if taken under compulsion, and cannot be construed as torture even by the widest stretch of the imagination. The

process is merely photographing the finger-tips by pressing a piece of paper against them, instead of holding the camera plate at a short distance.

No act of volition on the prisoner's part is necessary in order to establish the accuracy of the print. The finger-print of the dead is as accurate as the finger-print of the living. There can be no torture, because the prisoner is required to remain passive. Force enters into the case only if the prisoner proves recalcitrant.

Necessary force is now in use in the court. For example, if a man refuses to come into court for his trial the officers bring him in; if he refuses to stand up in order to be identified, the officers pick him up; if the officers of the court, or of the law, have reason to believe that he has a dangerous weapon concealed upon his person, he is searched and reasonable force may be used in this. If, however, the prisoner should be required to write his name, then some measure of volition would be involved, which might be regarded as a species of torture; but not so with finger-prints.

In a long series of decisions the courts have uniformly upheld the reasonable use of identification during trial and after conviction. The cases which have come before the court are on all fours with the question of taking finger-prints.[1]

In this twentieth century, therefore, what has an

[1] See brief filed in the Supreme Court, County of New York, in the case of "The People of the State of New York on the relation of Clara Brown, relator, against Hon. Peter Townsend, city magistrate of the City of New York, respondent"; brief submitted by Hon. George W. Wickersham and Hon. Arthur L. Goodhart, assistant corporation counsel. See also decision of City Magistrate W. Bruce Cobb in the matter of "The People of the State of New York, on complaint of John L. Sullivan against Sadie Blum," published in the *New York Law Journal*, June 14, 1916.

honest man to fear from accurate identification? What constitutional right is infringed if the State, or my bank, wishes to take my picture, a sample of my handwriting, a copy of my finger-prints, and to file them away for reference? Under existing laws I would have a perfect right to protest if either exhibited my picture or my handwriting in a way to bring contempt or suspicion upon me; but if these are filed away and used in the ordinary course of business in a proper way, I am protected against many mistakes which are possible from chance identification of me or of my signature. In fact, my constitutional rights are more likely to be protected because reliable identification records are on file.

Faulty identification has been the keystone of many an alibi, and many an alibi unjustly increases the work of police officers, probation officers, prosecuting officers, court officers, and the officers of institutions. Faulty identification is chiefly responsible for the continuance of laws providing short-term sentences for offenders. Were it not for faulty identification the public would have realized long ago the futility of the short-time definite sentence, and would have insisted upon its abolition. This is particularly true in a city like New York, where the introduction of the finger-print system has shown that nearly half of the prisoners committed to the workhouse had been there before, and that almost one-third of each year's total commitments are of persons who had been there three or more times within three years.

Imposition of Sentence. After the jury has brought in its verdict of guilty, its work with the accused is over. He stands branded a criminal before the world, but the punishment he is to receive for his crime has not

as yet been declared. Under our system the court is usually vested with the power, subject to certain severe limitations, of determining the sentence to be imposed upon the offender. Unless the law fixes a definite term for the punishment, it is in the power of the judge to suspend sentence, parole the offender, or to send him to prison for a definite term.

How shall a judge decide what course to take? Common sense and a spirit of kindness, not mere sentiment, should guide the court in deciding how to treat the offender whose guilt has been established. A kindly disposition is not incompatible with the judge's responsibility. Such generalities, however, are not a sufficient foundation upon which to work out a practical system.

Society has not furnished the court with proper standards for its guidance. There is a strange blending of the old and new, without proper integration. As stated by the great jurist, Sir Henry Maine, "All theories on the subject of punishment have more or less broken down; and we are at sea as to first principles." Under the old policy of law and of justice, the offender was usually sent to a prison to be punished and to expiate his sin. A definite measure of punishment was set up in the law for each violation of the law; and this, like the rain, which falls alike upon the just and the unjust, usually fell upon the offender regardless of his personal character or the circumstances surrounding his crime. The experience of centuries, however, has shown the ineffectiveness of the old system to protect society adequately either by the example of punishment imposed, or by the reformation of the offender.

In early days the death penalty was inflicted for

many offenses, but it did not decrease crime. In that period the jury mitigated the punishment provided by law by refusing to find the offender guilty. When the public conscience and the public mind appreciated the utter failure of capital punishment in many cases, its gradual abolition began, and this continued until capital punishment is to-day imposed only for the crime of murder. It does not follow, however, that all punishment may safely be abolished. Society has always deemed it necessary to impose penalties upon those who trespass upon the rights of its members. The law of self-preservation dictates and justifies such a policy. Common sense calls for rational punitive methods. But where shall we draw the line between the expiation of an offense through punishment and the imposition of a sentence requiring that the offender submit to certain conditions of life, training, and development?

We realize that the aims for which punishment may be inflicted are numerous—it may be deterrent, preventive, reformative, retributive, reparative. By force of example punishment may deter others from committing the same crime. Under certain circumstances, where the danger to the community is great, and the temptation to commit the offense is strong, it is necessary to impose a severe sentence. The offender may, therefore, be punished without seriously considering his moral guilt. In this case the individual suffers for the sake of the community. Punishment may be preventive in that an offender is kept from again committing the crime by being permanently shut up within prison walls. Such preventive punishment is now being used for the habitual criminal. If the purpose of the sentence is such prevention, the

word "punishment" is a misnomer. Society is attempting to protect itself and is not attempting to make the offender pay for his crime. The third purpose for which punishment is inflicted is to reform the offender himself. This aspect of punishment has been particularly emphasized during the twentieth century. It is this purpose which is bringing about a reform in our prison methods. We realize that it is necessary to build up the moral fiber of the criminal so that when he returns to society he will not continue to be a menace. There are two further purposes in the infliction of punishment which are of comparatively slight importance and are rarely considered. The first is that punishment gratifies the feelings of the persons injured. Where the victim realizes that the law will swiftly and adequately punish the offender, he is slow to take action himself. When, however, a victim realizes that the law will give him no redress, then he takes things into his own hands. The frequency of lynching in rural communities, where the enforcement of the law is haphazard, is an example of this tendency. The last purpose of punishment is that the detection of a wrongdoer and his punishment gratifies the disinterested feelings of moral indignation of the public. Justice requires that a man who has done wrong should suffer pain in return. (For a discussion of this subject, see Kenny's *Outlines of Criminal Law*, Cambridge University Press, 1913.)

On what theory, then, should a judge proceed in sentencing an offender? There are nearly as many answers to this question as there are persons studying the subject. It is not possible to establish clearly what should be done in each individual case, but it is proper that certain definite standards be set up,

according to which the individual offender shall be treated.

Some crimes are so infamous, so menacing in character, and so blighting in their results to the victim, that rigorous treatment is necessary. Crimes against the person—that is, crimes of violence—are of this kind. Crimes against property may be of a less serious nature.

When a man is brought before the court that sentence may be imposed, the court should be furnished with authentic information as to:

(1) The exact identity of the defendant;
(2) Salient facts concerning his family history and his past and present environment;
(3) His mental and physical condition;
(4) His attitude toward society;
(5) Any circumstances which call for leniency or severity in his case.

Until society furnishes the judge, for his guidance, some such information as this at the time sentence is imposed, it cannot justly complain if the disposition of cases suggests that justice is blind in some courts. Without some such information immediately available, how can we reasonably expect proper treatment at the hands of the judge in such cases, for example, as the following:

First: An ex-prisoner who has served several terms in State prison for burglary persuades a father and his son to break into a store at six o'clock at night in midwinter. In a corner is an unlocked safe, supposed to contain considerable money. At a desk by the window is a young stenographer and office-girl. The sixteen-year-old son is given a hatchet and told to

enter directly behind the father and frighten the girl into silence by threats, while the father opens the safe and steals the money. Meanwhile, the old thief is to stand in the shadow just outside the door, ready to give the alarm if the police approach the place, and ready to escape if the situation becomes dangerous for him. The boy is much excited, and instead of raising the hatchet to threaten the girl, actually strikes her twice over the head, and perhaps escapes murder in the first degree only because the police arrive in time to rescue her. The father in this case has been long out of work as the result of an accident which kept him in the hospital for several weeks.

Second: Two men are rivals in a trucking business. Their rivalry grows so intense that it develops into a veritable feud. The feeble-minded son of one, who works as an assistant, hears his father frequently denounce to his mother the alleged rascalities and meanness of the competitor. The boy's mind is inflamed by this denunciation, until he takes matters in his own hands, obtains poison, inserts it in an apple, and hands the apple, divided, to the competitor's two horses, standing on the street. The horses die, a bystander informs the police of the boy's action, the boy is arrested, convicted, and brought into court for sentence.

Third: A young wife finds it impossible to live with her young husband. She leaves him and goes to work to earn her own living. The husband, in a jealous rage because he believes she has left him for another, waylays her and slashes her about the head and face, exclaiming that her beauty shall attract men no more.

Fourth: A twenty-year-old boy meets, as he alleges,

a stranger, who asks him to hold a parcel, while he, the stranger, goes into a delicatessen store to make a purchase. The boy waits several minutes, the man does not return, the police arrive and arrest the boy on a charge of receiving stolen goods. The stranger has disappeared and the boy is unable to produce him in court. The men employed in the store identify the goods as those which had been taken from a counter. They say a young man had been loitering around the store, and they believe he was the person now in court as the defendant. The goods are valued at one hundred dollars. The jury finds the boy guilty.

It does not follow that the first offenders enumerated in the above cases should receive suspended sentence. Public opinion would revolt at such treatment in three of the cases, while it might accept it in one case.

Faulty Diagnosis. Under our present system it is not possible to furnish to the trial court an adequate diagnosis of the offender. The courts are not provided with physicians and an expert staff to gather, sift, and present the information upon which the court's judgment should be based. The detention prison physician is usually overworked, underpaid, and poorly prepared to discharge all the duties with which he is burdened by modern conditions. Additional agencies must be built up, and changes must be made which will enable the organ of government which is given responsibility to impose sentences, to secure better information, and to impose the sentence which will safeguard society and will at the same time meet the needs of the individual offender as far as that is consistent with public policy.

IV

CLASSIFICATION OF THE OFFENDER

Society cannot provide adequate treatment for the offender until it provides the means for studying each individual in order to ascertain all the facts concerning him, his environment, and the circumstances surrounding his crime. In earlier times offenders were grouped according to offenses committed. Later they were divided also according to age. To-day we are becoming increasingly interested in the personal characteristics of the offender. We wish to ascertain what manner of man he is, not merely how old he is, or of what offenses he is guilty.

Bases of Classification. From the standpoint of the criminal lawyer, the criminal law, and the court, the kind of offense is of chief consideration. To fix responsibility for the crime committed, however, the court and the law are giving more and more attention to age, and to physical and mental condition. Those who are interested in the offender primarily from the standpoint of social evolution wish to study his case in order to determine how far society is responsible for him, and how far his offenses are the result of conditions over which he has had little or no control. This is the viewpoint from which are written most of the newspaper "stories" which deal with sensational

trials and executions. Those responsible for our correctional institutions are chiefly interested in the offender's character and conduct, as they are compelled to live with him and to prepare him for his return to society. The jail physician and the scientist, interested in study of the offender from the standpoint of crime prevention, aim to establish the degree of his responsibility for his crime and to ascertain whether hope for reformation is justified.

Many speak of these different viewpoints or bases of classification as new and radical. They are not so contrary to commonly accepted ideas concerning the offender as many profess to believe. The man of the street frequently refers to a certain offender as too young or too easily led to appreciate fully what he has done; others when they hear of a crime, speak of the offender as "queer," as having "something wrong with his head," and contend that he is consequently less responsible than he would be if normal. Therefore we may study the offender from the following points of view to ascertain:

1. His physical and mental status.
2. His character and conduct.
3. The nature and causes of his delinquency.
4. The training he requires to fit him for his return to society.
5. His physical and mental age.

Physical and Mental Status: The Physically Handicapped. Industry yields its product of manufactured goods. It yields also its product of broken and maimed workers, some of whom are wholly unable to earn their living. Many of these broken and handicapped men become delinquent and find their way into the courts under criminal charges. Other large

groups are physically disabled from birth or during childhood. These, too, help to swell the ranks of the offenders. All these men may be classified as chronically unemployable, because too inefficient to hold positions under normal industrial conditions. They drift from the hospitals to the streets, from the streets to the cheap lodging-houses and to the back doors of saloons, then into the public charitable or correctional institutions or the prisons. When discharged they drift from one place to another—aimless, virtually helpless. They become part of the endless stream of misery which flows between the banks of inefficiency and criminality.

During the winter of 1914–15, when unemployment reached a climax in the city of New York, a study was made of 2,000 persons admitted to the Municipal Lodging House conducted by the Department of Public Charities. The physicians reported 226 of these 2,000 men as physically unable to work. Of these 4 per cent. were adjudged to be temporarily disabled, and 146 permanently disabled; 59 of the 2,000 had disabilities which demanded hospital treatment, and 239 were recommended for dispensary treatment. The greatest physical handicap was tuberculosis. Others were old age, poisoning in the system, heart trouble, serous pleurisy, and blindness.[1]

A study of the physical condition of inmates of the workhouse of the city of New York, made during the first week of May, 1916, indicated that 365 males were totally unable to work, a large proportion of

[1] *The Men We Lodge*, report to the Commissioner of Public Charities, city of New York, by the advisory social service committee of the Municipal Lodging House (pamphlet); New York, September, 1915.

these being in serious need of hospital treatment. This out of a total male population of 1,425.

Experience has shown that defective teeth in children are a source of continued bodily disorder which may produce serious defects. Inspectors employed by the Department of Public Charities of the city of New York, investigating conditions in private and semi-private charitable institutions, reported early in 1916 that out of 378 children confined in one private institution 103 had defective teeth; that 116 of 300 in another institution, and nearly every inmate of a third, suffered from decayed teeth.[1]

Contagious diseases play havoc with the offender. Blood tests of the women committed to the workhouse in the city of New York indicate that about 80 per cent. of them are suffering from local and contagious diseases. Most of these have contagious blood diseases in positive form. The exact number of men and women suffering from tuberculosis is not known definitely; but at least 4 per cent. of the 3,000 committed annually to the New York County Penitentiary are suffering from blood or contagious diseases. If individual treatment is not afforded the offender during the incipient stages of contagious disease, there can be little or no hope for his reformation. He falls gradually but steadily from the ranks of the occasional into the ranks of the habitual offender.

The Mentally Handicapped. Physicians, familiar with the long warfare of science upon the crass ignorance and the superstition which held that a sick person

[1] Brief submitted by William H. Hotchkiss on behalf of the Commissioner of Public Charities to Charles H. Strong, Commissioner serving under appointment of the Governor of New York, p. 43 (pamphlet); New York, 1916.

was possessed of a demon, readily sympathize with the contention that the offender is not a man possessed of a demon, but is a man, sick mentally, morally, or physically. The physician recognizes that the offender, as a sick man, needs treatment at the hands of firm, well-poised, scientifically trained and experienced men and women. This conception now is winning its way in the courts and in institutions for the care of offenders.

The prison and reformatory physician of to-day has little sympathy with the opinion expressed by a former leading officer of the New York City Reformatory, that "inmate F——," a border-line insanity case, "is a little devil. Under our former management here we would have taken him into the basement and beat the devil out of him, and he would have been a good boy after that." This same officer would promptly declare that the insane should be given specific treatment in an institution or asylum established for the care of persons so afflicted. His difficulty is this: He has not recognized that a great majority of the mentally handicapped are not definitely insane. Society and its institutions, such as the courts, the hospitals, the charitable and correctional institutions, have failed until recently to appreciate this truth.

There are different degrees of mental defect which are usually classified as definite types of feeble-mindedness. Some of the feeble-minded, if taken in hand during childhood or early youth, may easily be trained to become self-respecting members of society; whereas, drifting along, untrained and undirected, save by the forces of destruction, they are rushed downward into a life of crime and obliquity. Other groups of the feeble-minded are affected too seriously

to be capable of intelligent self-control and self-direction as members of society. Some of these are cared for by friends; others must be provided for in public or semi-public institutions.

In addition to the so-called feeble-minded groups are others sufficiently handicapped mentally to prevent their acting as respectable citizens of any community. These are usually described by physicians as psychopathic cases, sometimes as the constitutionally inferior, sometimes as epileptics, and sometimes as border-line insanity cases.

Only study of the individual by experienced persons scientifically trained will determine what treatment should be afforded the mentally handicapped. The number of offenders thus seriously handicapped has probably been exaggerated in recent years; but their number is great enough to challenge attention and to demand painstaking investigation and treatment.

Between January 1 and October 1, 1914, Dr. Anna T. Bingham made a special study of 100 women committed to the workhouse in the city of New York during that period.[1] These 100 women were selected indiscriminately, except that toward the end of the investigation those chosen for examination were between the ages of 16 and 25. The physical and mental ages of these women were as follows:

Actual Physical Age

Group V.	Early adolescence (15–18 years)....	2 cases
Group VI.	Later adolescence (19–29 years)....	83 cases
Group VII.	Early adult life (30–34 years).....	9 cases
Group VIII.	Later adult life (35–54 years).....	6 cases
	Total.....	100 cases

[1] Annual report, Department of Correction, city of New York, 1914, p. 189; New York, 1915.

Mental Growth Periods of the Same Women Reckoned from the Binet-Simon Scale

Group II.	Early childhood (passes all below 7-year tests, but not all of 7)	18 cases
Group III.	Later childhood (passes 7, but fails to pass 9)	49 cases
Group IV.	Pre-adolescent (passes 9, but fails to pass 10)	25 cases
Group V.	Early adolescent (passes 10, but fails to pass 12)	4 cases
Group VI.	Later adolescent (passes 12, but fails to pass 15)	4 cases
	Total	100 cases

A thoroughly reliable study of 100 women committed to the New York State Reformatory for Women at Bedford Hills, New York, showed that 20 were feeble-minded and in need of permanent custodial care, and that 5 of the 20 might possibly be improved by careful treatment. This is particularly striking in view of the fact that only young offenders, as a rule, are committed to this institution—offenders who are regarded by the judges in the lower courts as hopeful cases.[1]

An investigation of 100 habitual criminals committed to the Indiana State Prison revealed the fact that 12 were insane, 23 were feeble-minded, 38 were constitutionally inferior, 17 were psychopaths, and 10 were epileptics.[2]

A study of 400 women inmates of the Massachusetts

[1] Recommendations of the Laboratory of Social Hygiene, affiliated with the New York State Reformatory for Women, Bedford Hills, New York, p. 5 (pamphlet); New York, 1914.

[2] Proceedings American Prison Association Convention, St. Paul, 1914, p. 283; Indianapolis, 1915.

Reformatory for Women, at South Framingham, showed that these women should be divided into the following mental groups:

1. Those showing good native ability..... 88 — 22.0%
2. Those showing fair native ability..... 59 — 14.7%
3. Those with poor native ability, or dull from physical defects..... 79 — 19.7%
4. Those showing mental sub-normality (slight mental defect)..... 107 — 26.8%
5. Those showing feeble-mindedness (marked mental defect, *i.e.*, the moron group). 67 — 16.8%[1]

These unfortunate creatures have been selected by the winnowing processes of life in modern society. They are the shipwrecked dashed upon the rocks. We are not surprised, therefore, to find among those committed to the above and similar institutions more of the mentally handicapped than are found in the ordinary rank and file of citizens.

Inquiry as to the mentality of children committed to the institutions shows almost identical results. In the public schools there are a surprisingly large number of pupils mentally handicapped. Dr. Henry H. Goddard of the Training School for Atypical Children, at Vineland, New Jersey, made an examination of the pupils in the ungraded classes in the public school system in the city of New York, and reported that in his opinion there were 15,000 feeble-minded among approximately 800,000 children attending these schools. Later detailed studies conducted during the years 1915 and 1916 in other schools seem to indicate that this number may be slightly in excess of the total. With a view to treatment of the offender, it is im-

[1] Proceedings American Prison Association Convention, St. Paul, 1914; p. 358; Indianapolis, 1915.

portant that society ascertain definitely the number of the mentally handicapped, so that initial cases of delinquency may be treated from the standpoint of the mental defect rather than from the standpoint of the type of delinquency. The existence of a mental defect is a danger signal to which society should give heed as soon as discovered. Search should be made early in the life of each child, so that every one suffering from mental defect may be saved, if possible, by educational training and intelligent direction from a life of crime.

The Inebriate. If the prison physician were to believe the stories told him by the inmates, he would almost be persuaded that inebriety is the sole cause of crime. Furthermore, about 10,000 persons are admitted each year to Bellevue Hospital, in the city of New York, for treatment for intoxication. It is now well understood among physicians that inebriety is a disease, susceptible, like any other, of diagnosis in the individual case; that the use of alcoholic liquors and the so-called habit-forming drugs is due to a diseased condition, which may be studied and treated as any other ailment. It is well known that inebriety is one of the chief sources of poverty, and that poverty due to this cause frequently leads to violations of law which bring the violator into court and into the institutions established for care and treatment of the offender.

Since society no longer treats the sick man as one possessed of a demon, it should give the same serious attention to this dread disease of inebriety, which is the cause of so much suffering and delinquency, that is given to other diseases. Of 1,482 unemployed men received at the Municipal Lodging House in the city

of New York during the winter of 1915, who made statements regarding their habits, 1,292, or approximately 9 out of every 10, admitted that they drank alcoholic liquors; 657 stated that they drank excessively, and 635 that they drank moderately; while only 190 asserted that they were total abstainers.[1]

The Habitually Idle. The vagrant class in the cities, and the tramps who travel through the country, are recruited from the habitually idle. Some of the men in this class have degenerated, through repeated periods of idleness, into the voluntary state of unproductiveness and parasitism. Others never have disciplined themselves sufficiently to be able to obey orders. As a whole, they appear to be without initiative, without enthusiasm, and without hope in the world. They are apparently satisfied to drift, while proclaiming that society owes them a living and must provide it. Some of them have energy enough to commit a crime occasionally; some of the stronger among them commit crimes more frequently; but they finally drift into the habitual-offender class.

One of the offenders of this class, a woman, protested to Parole Commissioner Katharine B. Davis against restrictions upon her freedom in the workhouse, Blackwell's Island. Said she: "I have gone there every year for sixteen years, and I think I am entitled to some consideration." Another offender of this class, a man forty-five years of age, stated to me that he expected to be sent to the penitentiary regularly for petit larceny until he became too old to steal,

[1] *The Men We Lodge*, report to the Commissioner of Public Charities, State of New York, by the advisory social service committee of the Municipal Lodging House, p. 15 (pamphlet); New York, September, 1915.

then he expected to end his days as an inmate of the City Home for the Aged. He said he believed that when he found himself committed to the City Home for the Aged he would look back over his life to one bright spot at least; namely, a ride in the commissioner's automobile from the workhouse to the Tombs Prison—the only ride he ever had in such a vehicle.

The Unskilled. A study of the inmates of correctional institutions indicates that most of them are woefully in need of training that will enable them to perform even the simpler tasks demanded of men in industry. The number of clever and skilful among the offenders has been greatly overestimated and exaggerated. Very few, either men or women, have gone beyond the fifth grade of the ordinary public school; many are seriously handicapped by unfamiliarity with the English language, and many more are so ignorant as to be unable to converse intelligently. Indeed, it appears that most offenders come from that class which has not been given sufficient training of a practical sort to enable the individual to earn a respectable living.

The Aged. A small group of offenders is to be found among the aged who have drifted into criminality, apparently because they had no other source of livelihood. Many men and women who became delinquents in youth, but left this class in middle life, drift back into the ranks of the offenders in their old age. It is significant, however, that very few offenders who continuously lead a life of crime attain to ripe old age.

Character and Conduct. From the standpoint of character and conduct offenders may be divided into three groups: *a*. The capable who wish to do

better; *b.* The capable who do not wish to do better; *c.* The incapable and the unfit.

The Capable and Hopeful. About one-third of the ordinary prison population is made up of men and women who have been unfortunate, who are capable and desirous of doing better, and who will do better if given the opportunity. Men of this sort are the willing workers. These are the men who will sacrifice themselves for the sake of others; men who not only will seize every opportunity to better their conditions, but who will endeavor to create an opportunity where none exists. Men of this kind in prison may be depended upon to keep order, to aid in quelling disturbances, to subdue the tiger in themselves, and to help their fellow-prisoners to subdue the beast within them. In a régime of self-government these are the men who may be depended upon to make it a success.

The Capable and Wilfully Delinquent. Normal men have very little respect or consideration for men thoroughly trained and capable who wilfully and perversely choose to continue a life of crime. There are men of this kind who cannot be classed among the sick or the degenerate. Many are highly trained; some of them have come from the best homes in the land. They regard work as unnecessary, as the last resort of fools; personal responsibility as a burden improperly imposed by social conditions. They look upon moral precepts as the product of an ignorant and unschooled past, which tradition and authority seek to impose as a handicap upon the clever and the "efficient."

Men of this type were usually the brains of the criminal bands which terrorized whole countries in past ages, and are the brains of bands which to-day

terrorize sections of our large cities. They are the leaders who have eyes to see, yet see not—leading the blind. They are usually a small third or fifth of the average prison population.

The Incapable and the Unfit. Offenders who belong to this class are to be pitied. They are the children of the streets, of the brothel, of the saloon back-room. They are the broken and twisted men of the sweat-shop, the dark-room, the mine, and the mill. They are the battered remnant of men and women who have been unable to withstand the onslaught of physical and mental disability coupled with poverty, ignorance, and superstition. They are usually a large third of the average prison population. Such men, because of their weakness and their lack of fitness, when joined by the capable and wilfully perverse, make self-government and self-direction all but impossible in public institutions.

Nature and Cause of Delinquency. When we study the offender and his environment from the standpoint of the question why he committed the crime—especially when we regard him in his relation to society and with relation to the kind of crime committed—we may divide the offender again into three large groups: *a.* The casual and environmental or social offender; *b.* The constitutional or habitual offender; *c.* The symptomatic offender.[1]

The Casual and Environmental or Social Offender. To this group belong the men who become offenders because of environmental conditions. In almost every

[1] I am indebted for this classification to Dr. Morris J. Karpas, Medical Doctor and Psychiatrist. The full analysis is to be found in an address delivered at Columbia University and printed in the *New York Medical Journal* for February 5, 1916. The address is entitled, "Criminality from the Standpoint of a Psychiatrist."

case one in this group commits a crime only to carry him through a critical condition. We have the example of the banker who lost his money in speculation and "temporarily" borrowed funds of the bank to tide him over, with the full intention of replacing the money taken. We have the example of the banker who allowed his reserves to become depleted despite warnings of the impending panic of 1892 and 1893, only to find at the critical moment that he could not realize upon his assets, and that consequently he was liable to the full penalty of the law which prohibits undue depletion of a bank's reserves. In this same class we may find the embarrassed storekeeper who commits arson to tide him over a period of financial stress; also those who yield momentarily to temptation and commit some overt act which might be of little consequence to them if they were not prosecuted, but which may damn them forever if they are made to suffer the ignominy of conviction and imprisonment. Such offenders can hardly be considered criminals in any true sense, inasmuch as they show only transitory anti-social tendencies.

The number of young offenders in this group who are manufactured into delinquents by the large city is appalling. A carefully trained investigator lived for three years in the Hell's Kitchen district of the city of New York in order to become familiar with the lives of young delinquents who found their way into the Children's Court from that section of the city.[1] He reports that play and the instinct for play

[1] Mr. Edward M. Barrows, formerly secretary of the New York Child Labor Committee. Report contained in pamphlet entitled, *The City Where Crime Is Play*, pp. 12–27. Published by the People's Institute; New York, January, 1914.

are the cause of most of the so-called delinquency in that neighborhood, and, furthermore, that the treatment of these little offenders as delinquents is responsible for their gradual drifting into an attitude of hostility toward the law and the courts. As a result of his studies, Mr. Edward Barrows, the investigator, states that the 12,000 arrested annually in New York are typical children, and that of 169 court cases studied by him in detail, 84 arrests were made for moral but illegal play, and 85 for immoral and illegal play; but he explains that from the viewpoint of the children the play rated by the court and by him as immoral was not immoral.

It is certainly true that the human is a gregarious animal, and that the child's social instinct is very strong. It is natural, therefore, for children to club together in a group, which, if properly handled, supervised, and directed, may mean the salvation of every young member of it, but which if allowed to drift along, may develop into a gang of toughs and roughs, who run foul of the law and try to beat it, only to find themselves in court and probably in prison. Who can safely deny that social conditions are responsible for offenders of this type?

The Constitutional or Habitual Offender. Men of this type have a marked constitutional defect. An initial defect also may be demonstrated in their case. Dr. Morris J. Karpas, a student of offenders in this and other classes, points out that too much stress has been laid on the intellectual sphere and that little or no attention has been given to the emotional and volitional sphere in our treatment of the offender. In his discussion of mental abnormality, he states:

This form of mental inferiority (volitional form) is one of the most striking in the field of psychopathology. It is lamentable that such individuals come more often under the care and attention of courts than under the observation of physicians. The characteristic feature of this type of psychic inferiority is a reduction of will-power, and in some cases the character may show some alteration. They become easily influenced by suggestion, which is not lasting; they are unable to control their impulses, and not infrequently commit gross sexual acts and other crimes. They yield to temptation, and are inclined to lie and deceive. They are easily influenced by bad environment and immoderately "worship at the shrines of Venus and Baachus." They frequently come into conflict with their environment and become decidedly anti-social; and, moreover, they are subject to uncontrollable fits of passion. It is rather interesting that these individuals are usually intelligent and educated, and there is no congenital defect in the intellectual faculty.

Individuals of this class are frequently known as the black sheep of the family. Without exaggeration, it may be said that a large majority of our criminals, tramps, vagrants, prostitutes, chronic alcoholics, habitués of drugs, and the like, come under this class. Many are of good lineage, and are not burdened by hereditary taint. It is very important to recognize these types of mankind in the early developmental stages, and every possible effort should be made to adjust them to such an environment as will offer the least temptation in life.[1]

Many men belonging in this group have all the appearance of intellectual brilliance, and have usually been regarded as fully responsible for their acts, whereas, in fact, the sense of responsibility is entirely

[1] "Criminality from the Standpoint of a Psychiatrist," Dr. Morris J. Karpas; *New York Medical Journal*, February 5, 1916.

foreign to them. They are really as irresponsible as are the degenerates and the more feeble-minded.

The Symptomatic Offender. Men and women in this group are suffering from some well-defined mental or nervous disease. They furnish the assassins of our Presidents. They are the poor creatures who believe themselves as wealthy as Crœsus; who pass bogus checks while they prattle of their large bank accounts; who forge the names of millionaires with as little diffidence or fear as they would experience in signing their own names. They suffer from hallucinations which lead them to assault their best friends, their neighbors, or perhaps any stranger they may meet.

In this same group must be placed the degenerates and perverts whose number, for some peculiar reason, appears to be constantly increasing. The best specialists in the field of neurology tell us that the sex instinct is the cause of many crimes committed by these persons. On the whole, we may say of all offenders in this group that they cannot keep pace with the march of society. They fall behind and become parasites or dead weights. If their number is to be reduced, and the spread of this type of criminality prevented, society must study carefully the particular needs of each individual and act upon the basis of facts thus ascertained. Treatment of such offenders in the past has been short-sighted, horrible, and at times almost diabolical.

The Training Required. It has already been pointed out that most offenders are unskilled and untrained, and that herein is apparently one of the principal causes of delinquency. From the standpoint of the court and the correctional institution the question of training is all-important, as it is the

task of the probation system and of the institution to fit the offender for his return as a self-sustaining member of society. There are as many differences of opinion as to what training should be afforded as there are differences of opinion as to how the public schools should be conducted. There are those who believe in developing the individual along the lines of his own instinctive desires as expressed through his activities; the development is to come from within, and it is the business of those responsible for the training to assist in the unfolding of the inherent faculties of mind and spirit. The so-called Montessori Method is a good example of this system of training. At the other extreme are those who believe that all wisdom has been discovered, that the director of training should be and is acquainted with all things discovered, and that the individual to be trained should be subordinated to the will of the director of training.

According to this view, age and experience—or even age with lack of experience—as against youth are the all-important considerations. Such a method of training centers attention upon curtailment of initiative. It stifles imagination and deadens enthusiasm in the individual.

Between these two extremes are two other groups. In the first are those who believe that the child's instinct should be given free play, that his native capacity should be developed rather than forced, but that he is sorely in need of the direction of those members of society who are evenly balanced and more experienced because of age and opportunity. In the second group on this middle ground are those who believe that no attention should be given to individual initiative and to the unfolding of the instincts; that

chief consideration should be given to the imposition of authority, and to the inculcation of the precepts which have been handed down by the forefathers. The main difference between them and the extreme group of conservatives is usually one of degree as to harshness to be displayed toward the person to be trained.

The first group are now producing self-government reformatories, industrial schools, and institutions, as well as self-government in public schools; the second group have had full sway in the old-fashioned prisons and penitentiaries. Whereas the first group in the middle ground have been producing the more modern schools and reformatories, such as the Preston School for Boys in California; the New York State Reformatory for Women, at Bedford Hills, New York; the Elmira Reformatory, at Elmira, New York; the Indiana State Reformatory, and similar institutions, the second group, in the middle ground, have developed such great institutions as Great Meadow Prison, at Comstock, New York; Ontario Prison, at Guelph, Ontario; Minnesota State Prison, at Stillwater, and the Washington (D. C.) Workhouse, at Occoquan, Virginia.

Having once adopted the plan or method of training, the different groups are able to utilize, to a large extent, the same tools. For instance, all correctional institutions give a great deal of attention to the so-called bread-and-butter training, which will enable the individual to earn a decent living upon his return to society. Attention also is centered, in the book schools of such institutions, upon reading, writing, arithmetic, and other simple fundamentals. Industrial training is provided for those mentally and physically capable of profiting by it. The limitations

of mentality, physical status, and disease are, or should be, well recognized.

The educational and industrial training in the better reformatories and industrial schools augurs well for the future. The differences of opinion as to this training are concerned principally with the viewpoint from which the training is being developed. The question of training, therefore, is joined closely with the question of government and discipline within the institution.

The Age Group of the Offender. The old system did not wholly fail to give consideration to the different classes of offenders. It compromised, however, between a classification based upon offenses and a classification based upon a certain physical aspect of the offender—namely, his age. From the standpoint of physical growth alone the age grouping of the offender has been considered important; but the development of mental science and appreciation of the rôle played by the mental and nervous system has brought to light the weaknesses of the old age-group classification. Therefore we have for consideration the physical age group and the mental age group.

The Physical Age Group. Men have usually studied the offender personally from the standpoint of his responsibility for offenses committed. This responsibility has been supposed to bear a direct relation to his age. The juvenile offender has been placed in one group, and has finally been given a special court and a procedure somewhat different from that of the other inferior criminal courts. Children's courts and juvenile institutions giving attention principally to educational work are examples of this.

The youthful offenders have usually included those

over twelve and under twenty-one years. The dividing line has generally been at twenty-one, which, with few exceptions, has been regarded as the age of maturity. The laws of many of our States require that persons under sixteen or twenty-one shall not be allowed to mingle with the "older and more hardened offenders." A careful investigation of conditions in the children's courts, in the inferior criminal courts, and even in the higher criminal courts, as well as in institutions for the various age groups, has disclosed the startling fact that there are a surprisingly large number of offenders with long institutional and delinquent experience who are under twenty-one years of age. In fact, the number of youthful degenerates and young persons who have committed serious crimes and have had considerable court and institutional experience is hardly appreciated at present. One of the striking features of modern delinquency is the increasing percentage of men under thirty among those tried for murder in the large cities. The decline in the average age of the average offender is hardly less marked.

Over 12,000 children per annum find their way into children's courts in the city of New York, and of the 125,618 individuals who came under the jurisdiction of the various institutions of the Department of Correction in that city in the year 1914,[1] 3 were under sixteen, 22,158 were between sixteen and twenty-one, 50,304 were between twenty-two and thirty, and 53,153 were over thirty. In short, here is a department having jurisdiction over offenders of more than sixteen years of age where the figures show that 72,462, or 58 per cent., were under thirty.

[1] Includes all persons transferred between institutions.

The Mental Age Group. Modern methods of treating the offender place increasing emphasis upon mental or psychological age, because it has become apparent to those who have had most experience in this work that his mental or psychological age is of more importance than his physical age; for when we are dealing with the offender we are dealing with a man of arrested development or stunted growth. This is the real significance of the movements undertaken to discover conditions of feeble-mindedness, constitutional inferiority, and other mental and nervous disorders which proclaim the offender to be an immature man.

Jail and reformatory physicians, as well as the directors of institutions for care of the insane, have driven home the truth that the physically mature man may be a mere child in judgment, appreciation, and personal responsibility. The psychiatrist, the neurologist, and the psychologist are studying the offender in order to discover what his mental and physical development actually is, so that society may be accurately informed as to what degree of responsibility may be demanded of those who are daily brought to book. The modern tendency is to lay less and less emphasis upon physical age, and more emphasis upon mental and physical development and experience.

V

PROBATION AND PAROLE

Who Should Be Placed on Probation. The probation system is a door of hope to the physically and mentally fit and the young environmental offender, and possibly to the offender of any age who commits a minor offense occasionally; but it is likely to prove a curse to those who are suffering from feeble-mindedness, dementia præcox, and other forms of insanity, acute inebriety, drug-addiction disease, and the different types of degeneracy. Nothing is to be gained by throwing back into the maelstrom of life in the modern city those who are unable to cope with social conditions. The same paternalistic spirit which empowers the State to take possession of the child and to place him in school for a number of years must empower the State in like manner to hold the weak and unfit, as well as the capable and wilfully delinquent, under control until he becomes sufficiently trained to be returned to society.

Although the probation system is relatively new, if we accept the statistics presented in the various reports of probation work we must conclude that it is operating very satisfactorily. The number of persons who have been placed on probation and have been subsequently rearrested for other offenses is

shown to be surprisingly small. But experienced wardens and superintendents of correctional institutions sometimes express the opinion that we should not accept these statistics at their face value. They do not deny that the probation system is an excellent thing for those offenders who will respond to the opportunities for good it presents; but they argue that the leniency shown to such offenders serves also to spur on others to whom probation is an opportunity to continue their past and to initiate more serious offenses. In other words, they argue that while lenient treatment may be a blessing to one who wishes to and is able to profit by it, it may operate as a curse to one who, because of desire or weakness, takes advantage of it to become a more serious offender. These men, therefore, urged that a more careful study should be made of the offender before placing him upon probation, so that the wilful, the degenerate, and the weak may be protected from himself and society protected from the further degradation of those in need of institutional treatment. They would cite Daniel Maddox as a case in point.

Daniel is a typical product of one of the congested sections of New York. Despite the fact that he was a chronic truant, he was able to reach the 5th-B grade in the public school. He was nineteen years of age on September 22, 1915. On July 7, 1907, he was arrested on a charge of larceny and committed to the House of Refuge. There he remained about eighteen months, then was paroled. On July 11, 1910, he was arrested on a charge of burglary, and committed to the New York Catholic Protectory, where he served a few months and was discharged. He was arrested again for larceny and recommitted to the Protectory. In

1911 he was sentenced again to the House of Refuge. He was paroled from that institution in 1913, violated his parole and was returned, and again was released on parole in March, 1914. He was arrested later in the same year for burglary and sentenced to Elmira Reformatory for Young Felons; released on parole September 24, 1915. He went back to live with his parents, but eleven days after release from Elmira was arrested on a charge of burglary, convicted and committed on February 10, 1916, to the penitentiary, Blackwells Island, under an indeterminate sentence.

Commissioners appointed by the Supreme Court declared him insane on February 22, whereupon he was transferred to the Matteawan State Asylum for the Insane, from which institution he was discharged on May 24 as cured. He was returned to the penitentiary to serve the remainder of his term. It is impossible to allow him to remain in a cell for fear he will do himself bodily harm. The doctors report that he is constitutionally inferior and consequently unable to continue as a member of society under conditions of self-control, and that to such a man parole is not only a disadvantage, but a curse.

It is probable that the probation system appears to work so successfully because its results are contrasted with the previous results flowing from the work of the woefully inefficient inferior courts of former days. It is likely, too, that it is a vast improvement over the commitment of practically every convicted person to the old type of correctional institution, which was conducted on such a uniformly low plane. It may be, also, that even the small amount of supervision exercised at present is a great advance over no supervision in the past—when it seemed to

be the practice of the lower courts to discharge offenders for lack of evidence if they did not wish to commit them to an institution. This was really a sort of probation system; but it did not work satisfactorily because the offender was allowed to return to his old environment without supervision. In view of the material improvements effected in the work and organization of the inferior courts of the present day, probation work must be steadily improved, or those who place their confidence in it will have a rude awakening.

Who Should Be Probation Officers. Very few probation officers have been specifically trained to undertake this difficult work. However, they have been for the most part men and women blessed with an uncommon amount of common sense. If probation work were to continue on its present basis, the experience they have acquired might so increase their efficiency as to meet all requirements.

Probation work, however, must be specialized and standardized, so that the task of field investigation may be separated and differentiated from that of interviewing and examining the prospective probationer. This examination must be made by specialists in medicine, neurology, and psychology. If the examinations are to be in the detention prison, by physicians and experts attached thereto, or to the court or the staff of the prosecuting attorney, then it may be that the present type of probation officer, after considerable experience, would be able to qualify for the probation work of the future. It is not possible, however, for the ordinary probation officer to perform the expert service now demanded of him. Here is a case in point:

Lucy Jones, a good-looking, high-grade imbecile girl, fifteen years of age, is arrested as a street-walker. The probation officer, a woman, finds that the girl is the daughter of a hard-working father and a drinking mother. She reports that the father, who has an income of fifteen dollars a week, takes charge of the family finances and looks after the mother continually in order to keep her out of trouble. The father states that if the court will place his child upon probation he will have a cousin come to live with him and look after the young girl while he is away at work during the day. The probation officer meets the cousin at the father's home and reports her to be a good-looking girl of twenty-three, who works in a shirt factory. The cousin says she can procure a place for the young girl as an operator in the shirt factory, where she can be under her watchful care during the day. The probation officer is impressed by the father and the cousin. She believes they will be able to minimize the bad effect of the mother. As a result she recommends to the court that the girl be placed upon probation instead of being committed to a home or a reformatory.

What the probation officer failed to learn was that the mother and daughter were feeble-minded and constitutionally inferior by heredity, and that the cousin working in the shirt factory was a girl whose mentality was certainly below a normal standard because of the same hereditary defect, which, after investigation, was shown to extend back through several generations. If the young girl had been subjected to a careful examination by a specialist her mental and constitutional inferiority would have been discovered, as would that of the mother and other mem-

bers of the family. This would have given the young offender an entirely different status, and would have led the probation officer to make a different recommendation to the court, or at least would have influenced the court to disregard the probation officer's recommendation and to commit the young offender to some institution where she could be given treatment for her mental and constitutional defect.

Is Probation Punishment? Considerable opposition to extension of the probation system has arisen because many do not regard it as a form of punishment. We find a progressive judge refusing to place a young offender upon probation recently because, he said, "This young fellow is normal in every respect, and yet when he found himself without funds, he hired out to work in a hotel as a porter and then robbed a guest of a hundred dollars' worth of jewelry which he found in the guest's room. Such a man ought to receive some punishment. I therefore will not place him on probation, but will commit him to an institution, where I hope he will be kept at least six months, so that he may learn that he cannot violate the laws with impunity."

The opposite view was expressed by another progressive judge, who stated that he would not place a young offender upon probation for a period of two and a half years, because a person guilty of this same offense, if sent to prison, would not ordinarily be kept there more than a year or a year and a half. He felt that two and a half years' probation was more serious punishment than a year or a year and a half in prison. Consequently he placed this young person upon probation for one year only.

These conflicting points of view raise the question,

What constitutes punishment? People have generally supposed that we punish a man by committing him to a prison where he will be deprived of his liberty and of opportunity to associate with his friends and the outside world; where he will be supplied with the coarsest of food, and not enough of that to appease his hunger; where he will be locked in a cell during the whole evening and night, and where he will be allowed only a few of the absolute necessities of life. People usually assume that in such a prison he will be required to work during the day at hard manual labor for eight or ten hours. This is hardly descriptive of life in the old-fashioned prison, or of prison life during the last ten or fifteen years.

These old prisons may have been thoroughly unsatisfactory, infested with vermin, centers for the breeding of disease germs; the discipline may have been depressing and harsh; there may have been no opportunities for the educational advancement of the inmates; they may not have been allowed even rudimentary sanitary privileges; nevertheless, it was not possible to employ the prisoners at hard manual labor continually for seven, eight, or ten hours per day. There has not been sufficient work to permit it; moreover, it has not been possible for institutional officers to secure continuous hard labor from the average inmate of the ordinary institution. Such conditions naturally led to the establishment of the reformatory type of institution, or the prison which is sanitary in every respect. The old prison may have been a place where a man's individuality was crushed out, but it was not thereby made a place of punishment any more than is the thoroughly modern institution which requires a man to rise to a very much higher personal standard

as to morals, as to his treatment of his fellows, and as to his educational and religious development. In other words, punishment is not analogous to degradation.

A person placed upon probation still is being punished. The measure of punishment will depend on the task imposed upon him, and the kind and intensity of supervision provided. The supervision, of course, cannot be as close and as persistent as is possible if the offender be committed to an institution. It is merely a question of degree. It is possible for an inmate of an institution where self-government reigns to possess almost as much freedom as if he were placed upon probation and kept under close supervision. For example, when placed upon probation and required as part of his probation to work at a certain plant where the probation officer has secured a position for him, and to report weekly of his progress, a man is not necessarily free at all; especially if he is required to turn over half his week's wages to pay for keeping his children in a home conducted by a philanthropic society, or to a hospital for medical service to his sick wife.

There is a kind of punishment imposed upon the probationer which he does not feel when he is in an institution—namely, punishment inflicted by the expressed attitude of his associates. It is seldom possible for him to live and work in a community without several people at least becoming acquainted with the fact that he is a probationer, and referring to him as such. Persistent reference to this is genuine punishment to a sensitive probationer. In an institution he associates with other offenders and is not compelled to suffer from criticism or ridicule of the mistakes which led to his downfall. People who pause to think will

appreciate the fact that the probationer has a hard row to hoe. It is when they are demanding vengeance that people forget this.

Extension of Probation System. More severe punishment of this type may be imposed by extending the period of a man's probation, and by increasing the intensity of the probation officer's supervision. This is possible even under present laws, as it has not been customary to continue suspension and supervision up to the full maximum period for which the offender might have been committed to an institution. Section 2188 of the Penal Laws of the State of New York is an example of the latitude allowed to the court in this field. It reads as follows:

> The several sections of this chapter which declare certain crimes to be punishable as therein mentioned devolve a duty upon the court authorized to pass sentence and to determine and impose the punishment prescribed, but such court may in its discretion suspend sentence, during the good behavior of the person convicted, where the maximum term of imprisonment prescribed by law does not exceed ten years and such person has never been convicted of a felony. Courts of special sessions are empowered to suspend sentence and at any time within the longest period for which a defendant might have been sentenced may issue process for the rearrest of the defendant, and when arraigned the court as it is then constituted may proceed to enter judgment and impose sentence.
>
> In the case of children under sixteen years of age at the time of conviction, the longest period of time after suspension of sentence within which a sentence may be imposed for such offense shall be one year; and in any proceeding of a criminal nature, triable before a magistrate, the magistrate, upon conviction, may suspend sentence and place the offender under probation and at any time there-

after, during the longest period for which he could have been committed in the first instance, such magistrate, or his successor, if his term has expired, may pronounce any judgment or sentence or impose any fine or other penalty, or make any commitment which might have been pronounced, imposed, or made at the time the conviction was had.

While an ordinary misdemeanant may not be placed in prison for more than a year, and be required to pay a fine of five hundred dollars or one dollar, or in lieu thereof to serve one day in prison for each dollar of fine imposed, it has not been customary to exercise close supervision and control upon probation during the full maximum period. If the offender is guilty of a felony, where the maximum possible period of imprisonment is five or ten years, he may be placed upon probation for the whole period and be required to make restitution to those whom he has defrauded or wronged. This restitution may be in the form of money or services. In fact, it might be entirely possible to place a doctor upon probation and require him to give his whole attention to ridding the community of mosquitoes, where he is to work under the close supervision of the Health Department in the ordinary city, county, or State. He may also be placed upon probation and be required to give his services for ten years, planning a sewerage system for a city, or for the drainage of the swampy lands of some particular State.

The abandoned-farm problem is a serious one in some of the Eastern States. It would be entirely possible for courts in a rural community particularly, where supervision over the probationer could be exercised easily, to require him to give his whole atten-

tion to the rehabilitation of abandoned farms. In this case he might be required to work under the supervision of State agricultural experiment stations. Such radical extension would hardly be possible in a large city because of the difficulties of supervision and the danger of escape. But when our system of identification is properly developed it may be possible to extend such a system to the smaller cities.

The French Republic recently set a good example in this respect during the "world war," when it placed most of its convicts in the army. Most of these men proved to be very patriotic and wholly loyal. In fact, reports sent back by military and other observers stated that the enemies of France were terror-stricken when they had to meet these "blue devils," as they were called.

In some parts of the country the courts permit young fellows arraigned before them to go free, provided they will enlist in the Army or Navy. Many moralists profess to be shocked by this; which only shows that these moralists are poor judges of human nature. Many a young man in the modern city becomes a delinquent because a life of crime is filled with excitement and adventure, whereas the life of the ordinary worker appears to them humdrum and "drab." Life in the Army and Navy is constantly filled with excitement and opportunities for change and adventure.

It seems safe to predict that the time is coming when society will demand of those who break its laws that they render as a penalty service at least commensurate with the harm they have done. If they cannot make restitution to the individuals wronged, they may make restitution to society by

material service which will accrue to the benefit of the average citizen.

In the mean time extension of the probation system should be made in the direction of increasing the supervision imposed. This will involve a great increase in the number of probation officers, or the development of direct communication between the courts and the person or institution giving the probationer employment. Closer supervision while on probation will necessitate more careful consideration before the probationer is released by the court. This in turn will demand closer co-operation between the various agencies of government dealing with the offender.

The present conduct of work at arm's-length cannot be continued. Much information about the offender brought into court lies hidden in the records of hospitals, charitable and correctional institutions, the district attorney's office, the Police Department, and even in the offices of the children's courts or the public schools. Because of conflict of authority and jurisdiction over records, and because of the mere fact that the records are thus scattered, it is impossible for probation officers making investigation for the court to assemble all this information for consideration before the judge must act and place the offender upon probation or commit him to an institution. It is usually impossible at present for the probation department to place before the court the following essential information concerning the offender:

1. A statement of his physical condition, showing either that he is able to earn his own livelihood, or has friends or relatives financially capable of caring for him.

2. A statement showing that he is industrially capable of

earning his own support, and in some cases the support of a dependent family.

3. A statement, in some cases, showing that the man is capable of earning his own support, and also showing that he can find work for himself or have it found for him.

4. A statement showing that he has a suitable home environment, or that a suitable home environment will be provided for him.

5. A statement showing that he is not unfitted by reason of feeble-mindedness or psycholopathic defect to control his own actions.

How Long Should Probation Continue? Probation should continue at least until the probationer is capable of taking his place as a self-respecting, self-supporting member of the community. Nothing is to be gained by short probation periods which will permit the offender to escape supervision and return to his old haunts and his old life, despite his belief that he will be able to withstand all temptations among his old friends. The continuance upon probation ought not to be regarded as a violation of the natural rights of the offender. The individual has no rights which are superior to those of the State. Society has the right to protect itself, and has a duty to perform on behalf of the offender. It never should release its hold on or its supervision over him until he is thoroughly capable of taking his place in the community as an ordinary citizen.

Society has taken upon itself the responsibility of protecting the individual against the offender. That responsibility the State assumed when it outlawed the blood feud. Society likewise has assumed the responsibility of protecting the individual from abuse and tyranny, especially by the majority organized

in the modern state. But society cannot be expected to allow the individual to tyrannize the majority, or to continue in wrong-doing because of some abstract principle which tradition states was given to man by some one because he is a man. Society also has an undeniable right to demand restitution from the offender before he is permitted to return to it as a self-respecting, self-controlled citizen. This may mean that long after he is able to live as a self-respecting member of the community he will be bound by law to render to the community service for which he receives no monetary reward. The question of the term of probation, therefore, must be considered with respect to the needs of society and the needs of the individual probationer.

Who Shall Be Placed Upon Parole? As contrasted with the release from correctional institutions without supervision, release under supervision has produced wholesome results. Here, too, we probably have the results of improved work in improved correctional institutions, and improvement in supervision on parole to contrast with the poor results achieved with the old-fashioned institution, where prisoners were discharged and allowed to drift for themselves. This raises the question of recidivism—about which we have little reliable information at present, because accurate records have not been kept. The chairman of the Board of Prison Commissioners of Massachusetts presented a report at the 1914 meeting of the American Prison Congress, showing the percentage of recidivists among 23,303 persons sentenced to correctional institutions of Massachusetts between October 1, 1913, and September 1, 1914. In this total of 23,303 sentenced, the report shows there were

13,437 recidivists, 87,513 former commitments, an average of 6.51 commitments for each recidivist, and a percentage of .576 of prisoners sentenced who are recidivists.[1]

The percentage of recidivists among persons discharged from reformatories established for persons under thirty years of age is considerably less than the percentage indicated above, whether the reformatory be for men or for women.

Taking everything into account, the percentage of recidivists among Elmira Reformatory paroled inmates has been about 40 per cent. Similar results have been shown at the Bedford Reformatory for Women. The record in the case of the New York City Reformatory for Misdemeanants is still better. Statistics of the reformatories in Massachusetts, Indiana, Michigan, and Ohio indicate even more encouraging results; but account must be taken of the fact that these figures for the most part do not cover the whole life of the paroled inmate, but only the period of supervision. The figures for Elmira are much more accurate, because at that institution, established in 1866 for felons, proper identification records have been kept for a considerable period. When a prisoner is paroled from Elmira we are able to trace him through the various records made of him in other correctional institutions.

While the parole plan is superior to the old plan, more careful supervision by a larger number of parole officers would doubtless increase the number of persons returned to the institutions for violation of parole. That has been strikingly exemplified in

[1] Report of American Prison Association Convention, 1914, St. Paul meeting, p. 231; Indianapolis, 1915.

the case of the New York City Reformatory, where, since the first day of January, 1916, under the system established by the new Parole Commission, which took over the work of the old Board of Parole of that institution, the number of paroled inmates returned has increased. This, without doubt, is entirely due to closer supervision, made possible by a larger number of parole officers, and by the extension of a system of finger-print identification throughout all of the eighteen institutions of the Department of Correction of the city. When a person is committed to the reformatory or penitentiary, or to any district and city prison, his finger-prints are taken immediately after conviction and compared with those on file at the workhouse, Blackwells Island. These comparisons have revealed that many inmates committed to the reformatory as first offenders had served one term or more in the city prisons or in the workhouse. Before the finger-print system was extended to the reformatory and penitentiary it was not possible to discover these facts.

No person should be paroled or discharged until he is physically and mentally capable of taking his place as a member of society—unless he be discharged for commitment to another institution better fitted to give him the care and training he requires. This is not at all possible under the definite sentence law, and only partly possible in the case of an indeterminate sentence with a maximum term. Where there is a maximum term it is advisable to release the inmate upon parole before the expiration of this term, so that he may have the advantage of a return to society, and of supervision before the State loses control over him.

Who Should Act as Parole Officers? Popular sentiment hitherto has been unwilling to allow correctional institutional officers to exercise control over the inmate after discharge upon parole, objection being based upon the theory that the institutional officer is either unfitted by training or temperament to perform this service, or is desirous of keeping every inmate in prison. In this way society has practically thrown away all the experience institutional officers gain while they have jurisdiction over inmates of their institutions, and at the same time has not encouraged these officers to develop themselves and to take a greater interest in their work. It has allowed a careless institutional officer to assume a negative attitude toward his work. He has not felt any personal responsibility for the failure of an inmate to make good after discharge, because he has been able to assert that it was the fault of the parole officer of the Police Department that the paroled person has become a recidivist.

If society had intelligently utilized the information which the institutional officer could have secured while the inmate was held under his jurisdiction, institutional work would have been more quickly improved and modernized. Every institutional officer would have been made to feel that society regarded him as a factor of higher usefulness than a mere keeper of the prisoner's body. It would have encouraged him to take a greater interest in the individual welfare of inmates committed to his direct charge, and to help them to secure positions, and to make good after discharge upon parole.

This has been demonstrated conclusively where the reformatory institution manager and superintendent

are made part of the parole system. No other officer has equal opportunity to study and observe the offender—certainly not the parole officer, who is able to see the paroled inmate for a few hours only per week at the most, and has not been able to become thoroughly acquainted with him.

Recent criticism of parole work of boards of managers and superintendents has not been lacking. This criticism centers chiefly upon the point that different managers and superintendents have different standards of treatment and procedure, and as a consequence have produced widely different results. Those who advance this criticism hold that the parole and pardon powers should be centralized in a board of pardon and parole, with local advisory boards attached to the various institutions where these advisory boards are not directly responsible for the conduct of the correctional work. This plan reflects the idea of centralization of power in one direction while denying it absolutely in another; for while the central board of parole could be held more directly responsible, perhaps, for its work as a parole commission, it could not he held responsible for upsetting the management and discipline of the institution, because it would not have any direct connection therewith.

A local advisory board of parole without power to make its recommendation effective would be a poor excuse for a responsible staff working in harmony with the institution. Any such system must lead inevitably to bad results, because it ignores the basic principle of all parole work, namely, preparation of the inmate for parole while he is in the institution. Anything that lessens the responsibility of the institution for that work lessens the general effectiveness

of the institution, and consequently the effectiveness of all parole work.

Combination of Probation and Parole. Probation work should be combined with parole work. The absolute division of offenders into different classes has not been productive of good results, for the reason that it has deprived those dealing with the adult offender of information concerning him collected during his childhood or early youth. A generally accepted theory has been that it is unfair to the juvenile delinquent to permit those dealing with older offenders to have access to records concerning him, because this inevitably places the youthful offender in the same class with the older, while the modern tendency is to separate entirely the juvenile court and the juvenile institution from the courts and institutions for the adult offender. As a matter of fact, this is a policy of saving at the spigot and wasting at the bunghole.

In the first place, those who have had experience with offenders over sixteen years of age have found that many have drifted into crime or serious delinquency because they were not brought to book in the first instance and made to feel that the proof of their earliest delinquency would be used against them if they continued on a criminal course, but would be forgotten—or ignored—if they became orderly and law-abiding. This vital point is well illustrated by the case of John Smith, now twenty-nine years of age, who has been known as one of the most notorious pickpockets in this country. He says he began picking pockets when he was seven years of age, because all young fellows were doing it. No one told him it was wrong. He thought it a good game because it gave him opportunity to fool both the victim and the

police. If arrested he was brought into court and discharged or fined two dollars. He declares he was arrested so many times that he cannot remember the number. Finally, he was sent to a juvenile asylum, where, he now asserts, he learned the "criminal game." Apparently no record of his offenses was made by the local authorities until 1906. Following is his New York and Philadelphia record:

November 27, 1906,	disorderly conduct; committed to the workhouse.
June 14, 1907,	accused of grand larceny; discharged.
October 16, 1907,	convicted of disorderly conduct; committed to the workhouse.
July 28, 1909,	arrested as a suspicious person; discharged.
October 6, 1909,	accused of disorderly conduct; discharged.
October 26, 1909,	accused of disorderly conduct; fined ten dollars.
January 17, 1910,	accused of grand larceny, discharged.
January 24, 1910,	convicted of disorderly conduct; fined ten dollars.
January 31, 1910,	convicted of disorderly conduct; fined five dollars.
May 9, 1913,	convicted of disorderly conduct; committed to workhouse for six months.
January 4, 1915,	accused of picking pockets in Philadelphia; no disposition of case.
January 9, 1915,	convicted of disorderly conduct; committed to workhouse for three months.

This is not an extraordinary, but a typical case. Had this young offender been made to realize in the beginning that a positive record of each arrest would

be made available to the officers of the law and the courts, he might not have continued his delinquency, especially as he is a bright and normal person, capable of earning an honest living for himself and his family. It is probable that he would have become a good citizen, as he is the product of a good home. He himself holds this belief. Society was doing this boy no kindness by allowing the facts of his juvenile delinquency to be hidden. The Police Department, the courts, and the correctional institutions of the city of New York can hardly congratulate themselves upon the results of their work as shown by his record. It was the finger-print system which finally persuaded him, at the age of twenty-nine, to "go straight," as there no longer was any chance for him to lead successfully a life of crime; he was sure to be arrested, convicted, and sent to prison continuously, because his records could be telegraphed throughout the country.

All records of any kind collected in the public schools, in the hospitals, or in the children's courts should be consolidated with records kept of persons under thirty years of age, and these records should be in such form as to be readily accessible to those dealing with the children and the youth of the land. Then, in case of investigation to determine whether an offender should be placed upon parole, it would be easy to ascertain the essential facts concerning his past. No social taboo should be permitted to prevent society from acting to safeguard its own interests and promote the best interests of the offender. In no true sense are we wronging the young offender by making a record of his lapse, which can be utilized later, if necessary, in establishing his identity, his environ-

ment, and his particular needs. Opposition to the consolidation of such records, and to making the records of juvenile delinquency accessible to those concerned with adult delinquency, serves only to promote the interests of the underworld and of those dependent upon the underworld for sustenance or position. It is possible for society to protect the individual against abuse of information thus collected. Society never has reduced the sum of delinquency under the old methods. Indeed, some feel that it is on the increase; so that the efficacy of the old methods cannot be cited against recommendations for the new.

The demand for centralization of records with respect to juvenile and adult delinquents applies equally to the centralization of records with relation to probation and parole. There is no fundamental distinction between probation work and parole work. The work of probation officers would be improved if they were brought in close personal contact with those who have had opportunity to observe the delinquent during his stay in the average correctional institution. In fact, the record of such observations made in the institution should be utilized by society in any sane program for crime prevention; therefore, the probation officer should be in close contact with the institution and with the parole officer. This can be accomplished most effectively by combining parole and probation work. This will call for a centralization of records bearing upon probation and parole work. The question then remains, how can such consolidation and centralization be accomplished most effectively? Experience suggests the answer—through development of the clearing-house system.

VI

THE CLEARING-HOUSE

In the Educational and Business Worlds. Development of the clearing-house is recognition of the fact that the commission of crime is only one of the considerations which have led society to study the individual. The whole tendency of modern education is to give greater attention to the individual and to cease dividing the children of the land into groups according to some military plan, where little attention can be given to the needs of each child as an individual. The same tendency is manifest in the development of modern business, where men employed in large industries are shifted from one division to another until they find the particular division or group of men in which they can work most effectively.

Study of the individual centers upon examination or inquiry into his physical and mental ability to acquire certain information or to perform certain tasks. For this purpose the departments of education in our larger cities have established bureaus of child hygiene where physical examination is made and the child tested to determine his ability to respond to stimuli. Such a test was made some years ago in Washington, to determine how quickly the children in that city could think and act in response to a question or a direction. Those making the test were

amazed to find that the colored children, as a rule, were superior in this respect to the white children. This led to lively discussion and considerable acrimony; but when tests were made to determine ability to pass judgment upon something that happened, the superiority of the white children was much more striking than was the superiority of the colored children in the other field.

Differences in reaction time and in ability to form conclusions are discoverable in any group of persons. These differences have not been considered sufficiently in the field of education, and an outcome of this disregard has been many misfits in our industrial and workaday world. F. J. Taylor, well known as an expert in scientific management, was asked to reorganize the processes of a large establishment which manufactured bicycles. One process, he relates, was to test the roundness of steel balls used in ball bearings. Nine persons were assigned to the task. A ball was placed on the tip of the finger and allowed to roll down to the palm of the hand, where it was rolled back and forth. The sensitive palm and the eye were depended upon to discover any imperfection in roundness. By careful study, Mr. Taylor ascertained that some of the observers were four or five times as proficient as others; and by further examination he found that the slow reactors were wholly deficient in this field, but exceedingly capable in other respects. In other words, these particular individuals were wholly inefficient by training and by nature to perform this kind of work, whereas they were well fitted for labor in some other branches of the factory, where the proficient ball-testers would probably be unable to compete with them.

Investigations in the educational world and in business have led to the establishment of clearing-houses, where the individual may be studied in order to determine points of weakness and of strength, what training he requires, and what service he may be able to perform. As an example in the educational world we have the Schmidlapp Bureau, established in Cincinnati to test the proficiency of children obtaining their working-papers. This bureau has endeavored to determine whether children leaving school when they have completed the 5th B grade develop more rapidly than those remaining in school through the 6th B grade. An attempt also has been made to establish a standard of educational development which should be attained before discharging a pupil to find his way in the community. This is but the forerunner of further intensive studies in this great laboratory which will indicate to teachers and supervisors in the public schools what training should be given to each particular child, and what emphasis should be given to the respective studies offered.

The psychological laboratories at the University of Pennsylvania have been studying the abnormal and retarded children to determine what work should be given to each in order to bring him up to a normal standard, or fit him to take his proper place in the public school or in the outer world.

Studies have been undertaken in a number of public schools in New York, with the object of establishing what should be the normal attainments of a child of a particular age—this information to be utilized in the conduct of the daily work of the schools and in the promulgation of courses of study. All this work is in its infancy, but it emphasizes the necessity of

treatment of the individual as contrasted with the old herding, military plan, which regimented individuals into groups, and then treated all as if they were the same in training, in native ability, and in ability to respond to stimuli or training.

The same type of experiment has been undertaken in the business world, but it has not been developed so far as yet. The ordinary shifting boss or foreman, or chief of office staff, has been required to size up and supervise the individuals assigned to work, and to change them from time to time to produce better results. This has not been done scientifically or accurately. The experience and judgment of the observer have been depended upon, as a rule; but at the National Cash Register plant in Dayton, Ohio, and in the Ford Automobile plant in Detroit, this work of observation and testing of the individual has been carried very much further. In the latter plant, particularly, a man is carefully studied by a sociologist, and in some instances by one specially trained in making observation of individuals, before he is assigned to a shop; and then he is transferred from shop to shop until he finds the particular place for which he is best fitted. Careful testing in that plant has shown that fatigue interferes seriously with the highest efficiency. Under the division of labor established there men work frequently in shifts of three or four hours at very high speed, and then are given generous periods of rest and recreation; for experience has shown that they cannot continue doing good work at high speed for long periods.

Clearing-houses for Offenders. The studies of Lombroso, the great criminologist, were of considerable importance in his day, but they have been en-

tirely overshadowed by the modern development of medicine, of neurology, of psychiatry, and of psychology. The laboratory established in the Chicago Juvenile Court has profoundly affected the treatment of the juvenile delinquent in the United States, and has practically exploded the old belief that there is a criminal class. Also it has cast grave doubt upon the accuracy of the work of those who have classed some offenders as habitual or "born." This laboratory, too, has indicated the woeful inability of the ordinary court work and of the ordinary court procedure to establish the facts with respect to a particular offender and his responsibility for his offenses.

Significant results have been achieved by the Bureau of Social Hygiene affiliated with the State Reformatory for Women, in Bedford Hills,[1] New York, and at the Boston Psychopathic Hospital, Boston, Massachusetts, where a group of experts in different fields of science have studied those committed to institutions to determine their physical and mental status, their character and habits, and the possibilities of successful reformatory work in their cases. The results of these studies constitute a striking commentary upon the inability of ordinary court procedure to establish the necessary facts with respect to an offender brought before the court. The work of these laboratories, as they are being developed, indicates that much of our criminal law and penal code must be rewritten, and that our probation, parole, and in-

[1] See Fernald, Mabel R., PhD., "Practical Applications of Psychology to the Problems of a Clearing-house"; Proceedings Annual Conference Charities and Correction, Indianapolis, 1916; pp. 538–546. See Appendix VII for outline of a clearing-house system out of which the Bureau of Social Hygiene was developed.

stitutional work must be changed in vital respects to meet present and future needs.

What the Clearing-house May Determine. The work of the clearing-house should be so organized as to furnish information to the court concerning the individual offender, and at the same time to utilize information gathered about particular offenders as a basis of generalization for further investigation. After an offender has been arrested, the clearing-house, by investigation, should discover:

> That he has (1) such and such physical characteristics, including both his special abilities and disabilities; and (2) such and such mental qualifications, disabilities, aberrational tendencies, and general traits; (3) he has committed such and such types of delinquent acts; (4) in the background there are such and such conditions of heredity, physical development, traumatism, early teachings of immoral conduct, bad personal habits, lack of educational opportunities, and so on; (5) then in the light of the offender's being what he is physically and mentally, and having this given background, on the basis of easily knowable predictabilities, something like a justifiable prognosis can be offered if such and such treatment is afforded under whatever environment may be available.[1]

Some of this information is collected during the course of the trial, and some is collected by the probation officers during their investigations. Alienists appointed by the court may render reports which are satisfactory in special cases; but the border-line cases, of course, are rarely touched through the appointment of special experts by the court. The

[1] Healy, William, *Illinois Medical Journal*, October, 1914. See also special report of Committee A of the American Institute of Criminal Law and Criminology, p. 13 (pamphlet); Chicago, 1913.

physician attached to the detention prison frequently furnishes some information concerning the status of the offender, but these physicians are usually so overworked as to render it impossible for them to give the detailed attention to each case which the interests of society demand. Under the most favorable circumstances we cannot hope that the court, probation and detention systems, as organized to-day, will furnish sufficient information on all points upon which information should be had for the centralized clearing-house system. The chief thing to be avoided in this entire field is jumping to conclusions as to particular causes of delinquency, or particular traits which it is easy to assert or assume that the offender possesses.

Each offender presented for examination raises the question of how far hereditary influence and environmental influence have been instrumental in causing his downfall. Both of these influences have been instrumental in the case of every offender. If the hereditary influences predominate, there is apparently less opportunity to effect reformation. It is most difficult to determine where the balance lies. Dr. Edith R. Spaulding and Dr. William Healy, after completing a study of repeated offenders, state:

> We repeat that in the study of one thousand cases we can find no proof of the existence of hereditary criminalistic traits, as such. Of course, we cannot absolutely deny such inheritance, but judging by our studies, we feel that careful observations elsewhere will bring forward evidence rather against such a theory than in favor of it.
>
> On the other hand, through studies of the eugenists, and advances in medical and psychologic knowledge, crime will be found indirectly related to heredity in ways most important for society to recognize. . . . We may regard the idea of

bare criminalistic traits, especially in their hereditary aspects, as an unsubstantiated metaphysical hypothesis.[1]

If the court assumes that it is impossible in a given case to determine just how far the environmental influences, or the hereditary influences, have predominated to produce the offender, it nevertheless may secure sufficient information upon these points to serve as a basis of decision as to the particular offender. The court may not be able to determine whether inherited physical traits are responsible for the offender's difficulties, or whether inherited physical weaknesses, combined with bad environment, are responsible. There can be no question but what, from the standpoint of the court, the offender must be placed in an environment where he will not be subjected to those influences which have at least increased the destructiveness of the inherited traits, and where the offender should secure proper treatment for the inherited weaknesses or diseases.

Specialists in the various fields, working together, should put an end to the medical and legal scandals growing out of sensational trials, where certain experts, or so-called experts, represent one side, and other experts, or so-called experts, represent the other side, with the result that the jury usually decides to use its common sense and disregards the "expert" testimony.[2] There should be such a careful study of the hereditary influences of birth and early childhood, of environmental conditions, of training and develop-

[1] Spaulding, Edith R., M.D.; Healy, William, M.D.; "Inheritance as a Factor in Criminality"; a study of a thousand cases of young repeated offenders. Bulletin of the American Academy of Medicine, vol. xv, No. 1; Feb., 1914.

[2] The establishment of criminal responsibility is a matter for experts. See Appendix II.

ment, as will give a clear picture of the offender. This is especially true of the difficult insanity cases, such as dementia præcox, paranoia, and the like.[1]

There are many cases of border-line insanity, and of constitutional inferiority, as well as different types of degeneracy, which should be studied from every point of view. The work of the neurologist and psychiatrist should be supplemented by that of the psychologist, sociologist, and the trained field investigator. These studies, of course, will be undertaken primarily to determine the offender's degree of responsibility. They are of great importance also as a guide to the court in disposing of cases where commitment must be made to an institution, and later in guiding the institution to provide the training and treatment necessary for effecting the offender's eventual rehabilitation.

From the standpoint of the institution to which commitment is to be made, and from the standpoint of institutional training and development, it is most important that all the facts of heredity, childhood, environment, and subsequent training should be placed in the hands of the institutional authorities.

The need for such studies is made increasingly apparent by latest results in laboratories where investigations are in progress to determine the special aptitudes or abilities of normal as well as defective children. For one thing, the number of the feeble-minded has been greatly exaggerated. Of the one thousand offenders studied by Dr. Edith R. Spauld-

[1] Olson, Harry, Chief Justice of Municipal Court of Chicago, "Disease and Crime"; an analogy, the progress that has been made, and what the future promises, as shown by the psychopathic laboratories. An address published as a pamphlet; Chicago, 1916.

ing and Dr. William Healy, 65 per cent. had no discoverable mental defect or aberration.[1]

In like manner, the results of the study of the offender's ability, disability, educational and industrial training should be placed in the hands of the institutional authorities at as early a date as possible, so that he may be freed or assigned to that branch of the institution where he may receive the proper discipline and treatment, and may be given work for which he is fitted by mental and physical endowment and by training. Such information is of equal importance if the court wishes to pass upon the final release of the offender upon probation, for such facts should be taken into consideration before decision is made as to whether an offender should be sent to an institution or released upon probation.

The responsibility of deciding whether the individual should be sent to an institution or released upon probation will naturally lead the court to demand that the clearing-house experts furnish it with a statement based upon their investigations, indicating whether it is wise to release him upon probation, and, if released, what may be expected of him. If the clearing-house cannot furnish the court with this advice, its investigations may be of some importance, but they will lack that degree of usefulness which should characterize the work of those who are better fitted, by training and experience, than is the ordinary court to determine these complex questions.

The advantage of the clearing-house system over

[1] Healy, William, "Medico-psychological Work in Courts," *Illinois Medical Journal*, October, 1914. See also "Research on the Proportion of Mental Defectives Among Delinquents," by Augusta F. Bronner, assistant director Psychopathic Institute, Juvenile Court, Chicago, the *Journal of Criminal Law and Criminology*, November, 1914.

the haphazard, disconnected system will be shown particularly at this point. Under modern conditions it is impossible for the court to digest sufficiently all the medical, psychological, and other data which might be supplemented by investigators working independently. The information must be digested and placed in usable form for the court.

The investigators attached to laboratories complain of the lack of time afforded them in their investigations, and in making final reports to the court in cases where it is not just that the offender should be kept in the detention prison for a long period awaiting investigation. This has given rise to recommendations that the responsibility of the overworked trial judge should cease with determination of the guilt or innocence of the offender, and that the duty of imposing sentence should be left to another court or a commission of experts. For example, the Commission on Prison Reform of the State of New York stated:

> The time-honored practice of intrusting to the judge under whom a prisoner is convicted of a crime involving the punishment of imprisonment, a wide discretion as to the penalty to be imposed has resulted in such grave abuses of justice as to call for its restriction. This discretion has never in our penal history been unlimited, it has been materially restricted by the present law providing for the indeterminate sentence within limits fixed by statute. In the opinion of your commission it should be further restricted in the manner suggested, vesting in another court or board of judicial dignity and authority and acting for the whole State, the jurisdiction to determine the period of imprisonment to be inflicted in each case.[1]

[1] Preliminary report of the Commission of Prison Reform of the State of New York, p. 14 (pamphlet); New York, 1914.

Under this plan the clearing-house investigation would be made after guilt or innocence had been determined and after the case had been disposed of by the trial court. But, until such a court or commission as that described by the Commission of Prison Reform could secure sufficient experience, it probably would be unwise to vest in it complete control over the future of the offender whose guilt has been determined by the trial court. Men and women are influenced by their experience—and sentencing commissions and parole commissions are no exception to this rule. People usually complain because the trial court is so much more interested in the determination of innocence and guilt, and in carrying out the time-worn legal procedure of the court, than in the offender, that the tendency is to forget entirely that the offender is an individual. There is, however, as much danger that the commission or court dealing only with the offender after his guilt has been determined will have too little appreciation of the work of the police, district attorneys, and courts in catching the criminal and prosecuting him. This is but natural, as they have not the responsibility of determining guilt, nor have they had experience in the work of preventing or suppressing crime. Better results will generally be obtained by providing some means whereby the police, prosecuting attorneys, and courts may bring their influence to bear upon the work of the parole, court, or commission in determining, to some extent at least, what shall become of the offender after his guilt has been proved. This leads naturally to a consideration of the indeterminate sentence.

VII

THE INDETERMINATE SENTENCE

THE New York State Commission on Prison Reform presented in 1914 the arguments for the indeterminate sentence in the following words:

While perfect justice cannot be expected from any human instrumentality, it is conceived that a single court, acting for the entire State, and sitting as a board of parole or court of rehabilitation, will be much more apt to administer an equal justice than is possible under the present system. Under such a plan it will be the prisoner and not the crime that will be tried and sentenced, and every one convicted of crime will be permitted, and required, to work out his own salvation by demonstrating his fitness for release. If there are convicts who, because of habitual criminality, are unfit to be restored to a free and responsible life in the community, such a court or board as is here proposed will be as likely to keep them in confinement as a court imposing a sentence under existing conditions. Indeed, one of the gravest abuses of the present system under which hardened criminals are sentenced to a definite term, at the expiration of which they are necessarily released to resume their criminal practices, will in a large measure, if not wholly, be done away with. A man who has by his conduct in prison, and by his habits before committed to prison, demonstrated his unfitness for a life of freedom, should be kept permanently in detention irrespective of the nature of the particular crime of which he has been convicted.

If the object of our penal system is punishment for crime, and nothing more, then, indeed, it may be argued that a hardened criminal, by a sentence of a given number of years, expiates the crime committed and is entitled to his freedom. But if the object of the penal law is to protect society by the confinement of those who prey upon it, there is nothing to be said for the system under which hardened criminals are, after a definite period of imprisonment, released to resume their evil practices. Your commission believes that such a court or board as is here recommended could more wisely determine how long such an offender should, in the interests of society, be confined than could the judge by whom he was tried.[1]

Failure of the Definite Sentence. The Commission does not overdraw its picture of the failure of the definite sentence. State constitutions and State laws, not the courts, are primarily responsible for the definite-sentence system which has imposed an impossible task upon the court. Society has apparently been unwilling to vest in the court full discretion, but has attempted to determine in advance different classes of crime, and to fix the penalties therefor, apparently so that there should be little or no doubt as to infliction of the penalty in case of conviction. These laws for the most part were drawn before preventive medicine and psychology had developed the facts with respect to the causes of and possible treatment for delinquency. The point of view of those who drafted these statutes was unduly affected by the desire to provide a penalty to fit the crime rather than to provide a penalty which would meet the needs of the offender.

There are twenty-four or twenty-five hundred sec-

[1] Op. Cit., p. 15.

tions in the penal laws of the State of New York, and in the greater number of these the Legislature has determined, within certain limits, what the punishment shall be for violation. The legal theorists have set forth several different degrees of unlawful entry, of burglary, of assault, and of manslaughter. A division appears to have been made from the standpoint of external provable facts with respect to the offense committed. Few of them allow sufficient consideration of either the real intent of the offender or of the social significance of the delinquent act. The courts have attempted to remedy some of the obvious weaknesses of the code by judicial construction, whereby the degree of the offender's responsibility may be determined with legal certainty.

Despite the brilliant work of the trained minds that have been applied to study of the subject, it has not been possible to overcome the fundamental defect in this system, which places upon the court the responsibility of determining the innocence or guilt of the particular offender, pursuant to statutory directions. Then, in case guilt is determined, this system lays upon the court the responsibility of determining almost at once what treatment the offender needs. No competent physician would attempt to determine offhand how long a patient suffering from a contagious disease, or a fractured limb, should remain in a hospital; nor would a capable teacher of music prophesy, when a pupil begins work, the time required to make of the pupil a proficient and capable pianist; nor is it possible for the chief engineer of a foundry to determine, when a young man begins work as an apprentice, precisely how long it will take for him to become an efficient machinist. Yet our laws have

imposed upon the trial judge in most instances the responsibility of determining, within the limits laid down by the law, exactly how many days, weeks, months, or years will be necessary for the infliction of sufficient punishment to make an offender regret his acts, or to afford him sufficient training to fit him for return to a free and responsible life. Such laws were drawn by those who accepted the validity of the eighteenth-century assumption of equality. Those philosophers assumed that all persons were born with equal endowment, and that, if circumstances or environment or personal education did not interfere, one person would become as strong and as able as another, and that the evils resulting from poor training and from the interposition of artificial barriers could be overcome or sufficiently minimized by the forces of free competition.

The failure of the definite-sentence law is easily discerned in the case of those institutions where minor offenders are committed for short terms. The frequency of these commitments clearly indicates their failure, if we are to judge them by their fruits. Until recently it has been impossible to obtain accurate proof of these repeated failures. In September, 1911, however, finger-print identification was introduced in the workhouse on Blackwells Island, which was receiving 15,000 inmates per year. The report for 1915 of the finger-print expert shows that 48 per cent. of the persons committed to the workhouse since finger-prints were first taken in September, 1911, had been there previously within that period, and that almost one-quarter of them had been committed there three or more times within the same period. Some had been committed twenty and some as many

as twenty-nine times. A continuous record was kept of one woman who was easily recognized, and in 1914 she was committed to this institution for the 104th time.

The finger-print reports of the workhouse for April and May, 1916, show that of 2,776 persons committed during these two months, 964 had been there at least three times previously, and a large proportion of this number had been there ten or more times. The Bertillon expert's report for the penitentiary on Blackwells Island for the year 1914 shows that about one-third of the 3,000 inmates had been committed there previously, and that a considerable number had served a term in practically every penal institution of this State, and some in other States and foreign countries.

The high percentage of recidivism among those committed to county jails and houses of correction in Massachusetts, shown on page 93, is a clear indication of the failure of the definite term of commitment to that type of institution. These figures of failure could be duplicated by the statistics of similar institutions in all parts of the country, and also of State prisons or penitentiaries.

In some measure this failure may be ascribed chiefly to insufficiency of information supplied to the court before sentence was imposed. But the system itself is so hopelessly at fault as to render it impossible for the court or the institution to produce proper results.

The failure of the definite sentence to accomplish results within the correctional institutions is well known to those who have had experience in this direction. A man is committed to be punished and to be treated because of his delinquency. Part of the work

of the institution must consist of drawing him out and developing his ability to control himself, to live with his fellows, and to produce enough to earn a living for himself and those dependent upon him. There is very little incentive for him to respond to his better nature and to the demands of the institution for self-development and self-training when he cannot shorten perceptibly thereby the term of his stay. The chief difficulty with these offenders is short-sightedness. If they had better judgment and ability to control themselves, they would not be offenders. They lack a foresight which would naturally compel them to respond to all the higher demands made upon them. Experience shows that the term of imprisonment and the subsequent release are the all-important considerations in the mind of the prisoner. If his term will expire at the same time whether he behaves or does not behave, whether he works or refuses to work, and whether he develops or does not develop himself, he has little incentive to profit by his institutional training. In fact, the definite sentence, under such circumstances, operates frequently to put a premium upon his failure to make good.

Features of the Indeterminate Sentence. The indeterminate sentence relieves the court of the necessity of determining, at the time sentence is imposed, how long the offender should remain in prison. It imposes upon the offender chief responsibility for determining, within reasonable limits, the time of his release. He has a selfish interest, therefore, in self-development—provided those responsible for the operation of the indeterminate sentence make the proper demands upon him. There must be intelligent supervision and intelligent co-operation of all concerned in

order to effect the best results. If the plan is properly carried out the following results should be achieved with respect to each offender before he is released:

The Inmate Should Be Cured of Disease. Any man who is committed to prison while suffering from a disease should be cured before he is discharged, if it is possible to cure him; or it must be definitely established that a cure is not possible. If he is to be released because incurable, the fact should be established that it is safe to do so; and if not safe, he should be transferred to some institution better fitted to treat and care for him. All contagious diseases should be cured before inmates suffering therefrom are discharged to resume their places as members of the community, else they will serve as sources of contagion to others. If an inmate is suffering from some physical weakness he should have treatment for a sufficient time to insure eventual cure or his eventual rehabilitation as a member of society. If released for convalescence, such release should be only after definite assurance that some one will see that he receives continuous treatment as long as this is necessary, and, further, that he will not be allowed to drift back into his old environment, where there is constant temptation. If an inmate is suffering from some disorder which may be cured by an operation, this should be performed.

Under the indeterminate-sentence plan the self-interest of the inmate may be called upon to assert itself in promoting treatment and rehabilitation; whereas, under the definite-sentence plan, while he may have some incentive to achieve physical or mental rehabilitation, this incentive will not be nearly so strong as in the case of the indefinite sentence, under

which he may be released at any time as cured, or as fit for rehabilitation treatment in another institution or under other conditions.

The Inmate Should Be Fitted to Earn His Own Living. Few prisoners committed to institutions have been trained to earn their own living in the workaday world. Very few ever reached the fifth grade in the public school. Fewer still have had industrial training of a kind to fit them for earning their living at work in which there is opportunity for reasonable advancement. As a rule, they are educational and industrial misfits. From one point of view it matters little whether they have or have not had opportunities; the fact is that they are industrially and educationally inferior. The aim of the institution, therefore, should be to train the inmate sufficiently to permit him to take his place in the community as a self-supporting member, with reasonable hope of advancing himself by continued effort. There is some hope, of course, for the man discharged from an institution to take up blind alley work, but there is almost no hope of his achieving a permanent position as a self-supporting member of society—because as a rule the criminal has become accustomed to a standard of living which it is not possible for him to sustain by his own legitimate efforts. Therefore, unless the average inmate of an institution may be held for a period sufficient to fit him by training for his release, we can hardly hope for his complete reformation upon discharge.

It is at this point that the indeterminate sentence most plainly displays its superiority over the definite sentence. A long term of imprisonment under the definite plan deadens the individual and reduces his

hope and enthusiasm. In fact, its whole tendency is to institutionalize the offender; whereas, if a man is sentenced to a long term of imprisonment under the indefinite plan, he is at least constantly influenced by the spur of hope that he may actually be released when he has become proficient. He realizes that the responsibility rests upon him, and that no effort of his own directed to this end is wasted. His constant effort and application in order to achieve release develops in him habits of industry and sobriety which are not easily destroyed upon release.

If the inmate be somewhat feeble-minded, he is the type most affected by habit and custom. In fact, he becomes a slave to both. We may safely assume that the higher-grade feeble-minded man may be trained to habits of sobriety and industry, and that when he becomes accustomed to doing work in a certain way, and living in a certain way, it will be more difficult for him to retrograde than in the case of the more brilliant.

We have hardly begun to appreciate the significance of this in our dealings with the feeble-minded offender. The higher-grade feeble-minded in the so-called upper middle class, and in the so-called higher economic groups, are protected by the conditions and habits prevailing in these classes. As a result they are prevented from entering the haphazard life of the offender. We have not properly utilized our knowledge of these facts in our treatment of the offender, who usually belongs in those ranks of society which have not had the advantage of living under conditions that produce or encourage habits of sobriety and of concentration

upon the work at hand. Many of these unfortunates encounter this sort of living for the first time when committed to an institution where the routine calls for order, cleanliness, decent consideration for one's fellows, and self-sacrifice.

Feeble-mindedness, therefore, does not render the offender's case hopeless. It is possible that many feeble-minded delinquents, had they been taken in hand in early youth, might have been trained to become self-sustaining citizens. This seems to be the opinion of Mrs. Helen Thompson Wooley, director of the Vocational Bureau of Cincinnati, who states, as a result of her investigations, that none of the children afflicted with the higher grades of mental defect are "necessarily destined to industrial failure on the ground of mental defect."[1] She summarizes thus her investigations and recommendations:

As a democratic nation, it is our belief that children should be trained for the highest type of pursuit in which they have a fair chance of success. There are, of course, many factors involved in success in life. It is by no means certain, for instance, that a child who has the necessary qualifications of mind and hand will therefore succeed in such professions as medicine or engineering. The point is, however, that without these basal qualifications he will certainly not succeed, and it is a waste of educational effort to try to make him.

Consider, now, our five rough groups. The individuals who stand consistently low in both respects seem destined for simple manual labor, or low-grade industrial positions, provided they have the necessary physical strength. Those

[1] Wooley, Mrs. Helen Thompson, "A New Scale of Mental and Physical Measurements for Adolescents, and Some of Its Uses," *Journal of Educational Psychology*, 1915.

who are very lacking in mere strength as well have slim prospects of being able to earn a living in the modern world. The group whose mental endowment is rather poor, or medium, but whose manual ability is good, should be prepared for the skilled trades. Those who have a medium endowment of both kinds should be guided toward the great mass of secondary positions in business and industry. Those whose mental development is exceptionally good, but who are lacking in manual skill, should be directed toward such professions as law, the ministry, literary pursuits, the non-experimental academic branches, the higher positions in business and finance, and some types of social work. Those who are gifted with exceptional ability in both directions, manual and mental, should be guided toward such professions as medicine, architecture, engineering, the experimental sciences, the arts, and certain types of social work.[1]

Dr. Mabel Fernald, of the Bureau of Social Hygiene Laboratories affiliated with the State Reformatory for Women, at Bedford Hills, New York, has shown, by comparison of tests of the inmates of the Reformatory through a period of about two years, that the earlier tests for feeble-mindedness were inaccurate; that only about 33⅓ per cent. of those examined were in need of permanent custodial care, whereas the early tests showed that all of the women examined were feeble-minded. The same careful study has indicated that the higher-grade feeble-minded may be classified with those of the higher-grade intelligence, so that they may be stimulated by association with greater intelligence.

The Permanent Custodial Cases Should Be Segregated. It is usually not possible during court

[1] Wooley, Mrs. Helen Thompson, Op. Cit., pp. 14, 15.

trial, and during the brief period of examination permitted under modern conditions before sentence is imposed, to ascertain what persons should be subject to permanent custodial care, and what persons should be held for a period of training and treatment. Only the most obvious cases may be specially handled during this period. All border-line cases require longer observation and treatment than is possible under ordinary conditions. The period of confinement in the institution, therefore, should be utilized in determining without doubt the question of commitment for permanent custodial care. It is not always possible, during the first months of confinement, to determine exactly what persons are of this type. We are constantly surprised by failures in diagnoses, or by remarkable recoveries effected despite most discouraging conditions. The indeterminate sentence provides sufficient time to correct mistakes of analysis and of diagnosis made from time to time, and to decide with accuracy who should be committed to an institution for permanent custodial care.

State penal codes generally specify that when a man has been convicted of a felony four or five times, and of a misdemeanor eight or more times, he may be indicted, tried, and convicted as an habitual criminal and committed, in the discretion of the court, to prison for life. The courts have been reluctant to resort to the use of these provisions of penal law, because experience has demonstrated that it is not safe to assume that a man who has committed five felonies or a man who has committed eight misdemeanors is necessarily an habitual offender—even in the present day, when so many offenders of this type are under thirty. Experience has demonstrated to the courts

that there is hope even for these offenders, and that the more intelligent, or those suffering from curable diseases, which are responsible for their delinquencies, may respond to reformative treatment.

The indeterminate sentence offers the best opportunity for handling all of these different types of offenders. It never closes the door of hope to the offender. On the other hand, it never deprives society of the opportunity of protecting itself against those who have failed to abide by its laws.

The indeterminate sentence offers opportunity for putting an end to the offender's traveling in that vicious circle, from the institution to the community, from the community to the police station, to the court, and back to the institution. It protects the offender from his weaker self, it permits his release upon parole under conditions which make it easily possible for society to bring him back to the institution for further care and training if it be shown that his release was unwise. Moreover, it is not necessary, under this system, to bring him into court to prove him guilty of charges sufficiently serious to warrant his return to the institution for a time long enough to permit it to complete its work with him.

Under the indeterminate plan it is possible also for institutions to co-operate in their treatment of the offender. Constitutional and legal objections do not interpose to prevent the transfer of a man upon parole from a correctional institution to a hospital, to an insane asylum, to a special institution for treatment of epilepsy or feeble-mindedness or degeneracy—in which case failure of treatment or failure to respond to treatment may be followed immediately by re-

transfer to the correctional institution from which release was made upon parole. Under the definite-sentence plan this is not possible without recourse to the court, with its complicated procedure and its finely spun legal distinctions.

Weaknesses of the Indeterminate Plan. Like all other systems, the indeterminate plan will not work itself. Those responsible for its operation must exercise common sense and be honest and fair-minded in handling the offender. Under the definite plan it is possible for an inmate of an institution to appeal to the courts for redress and for release because he is being wrongfully treated, or in case evidence is produced tending to demonstrate his innocence of charges upon which he was committed. Society has not yet worked out a complete plan of procedure whereby the man serving an indeterminate sentence may be assured of just treatment. He must depend for release upon those responsible for placing him upon parole or granting him freedom. If those responsible for his release desire to exploit him or wreak vengeance upon him, or to utilize him for political purposes, they may do so with somewhat greater chance of success than would ordinarily be possible if he were serving a definite time in prison regardless of what he did or how he might be treated. Centralization of authority and responsibility for determining parole and release from an institution and return thereto must be depended upon to prevent such abuses of the indeterminate system as operate against the best interests of society and the individual offender. If this responsibility be definitely centered in few hands it will be much easier to fix responsibility than is now possible under the definite-sentence plan, be-

cause of our many courts and our complicated legal system.

Opposition to the indeterminate sentence usually presents for consideration the following points: 1. That the indeterminate sentence is sound in theory, but unsound in practice. 2. That it cannot be operated equitably. 3. That it is unduly expensive.

Many are willing to admit the soundness of the indeterminate sentence in theory, but in their judgment it is not possible to operate the plan under conditions similar, for example, to those under which hospitals are operated. They point out that wherever the indeterminate plan has been adopted what has really happened is that the board of managers of the institution, or other board or committee fixes the definite sentence after conviction, instead of having the court fix the sentence at the time of commitment. They point out, for example, that the Elmira Reformatory Board of Managers, the Rahway (New Jersey) State Reformatory Board of Managers, and the managers of private or semi-private institutions to which commitments were made under the so-called indeterminate sentence in the State of New York, have adopted rules fixing a definite term for each person committed, provided his conduct is good during this period of confinement. Those calling attention to this fixation of a tentative minimum admit that infraction of the rules, failure to work, or failure to make good upon parole may operate to extend this period; but they contend that for the great body of inmates there is imposed, to all intents and purposes, a definite sentence of about thirteen months in the case of Elmira, about twelve months in the Rahway Reformatory,

and about six months in most of the private institutions to which commitments are made in the State of New York.

Those opposed to the indeterminate plan object to the first experimental plan adopted by the Parole Commission of the city of New York, whereby inmates of the penitentiary were informed, after investigation of their cases by the commission, that they were placed in a certain group, the groups being graded as follows: 1. One day to six months; 2. Six months to one year; 3. One year to eighteen months; 4. Eighteen months to twenty-four months; and so on, up to the maximum of three years provided by the indeterminate sentence and parole law.[1] This group plan would still be regarded, by those who are opposed to the indefinite plan, as a species of definite sentence, notwithstanding that the group period may be shortened or lengthened at any time by the discovery of additional evidence, by extraordinary improvement in the work and conduct of the individual, or by bad conduct and failure to work and to obey the rules of the institution and of the commission.

In order to perfect the administration of the law the commission has finally settled upon a combined group and marking system pursuant to which an inmate is placed in a certain group where he may earn not more than a fixed maximum number of merit marks per day. But he is told how many merit marks he must earn before his case will be considered by the Parole Commission. If he is in Group 1 he may earn a maximum of ten merit marks per day; but if he is in the lowest group he may earn only a maximum of four merit marks per day. While he is undergoing

[1] Chap. 579, Laws of 1915, amended by chap. 287, Laws of 1916.

punishment of certain sorts he cannot earn any merit marks. If he fails to make good in Group 1 he may be dropped to Group 2 or Group 3.

There is room for material improvement in the administration of the indeterminate-sentence laws now in force. The managers of an institution have adopted in the past the system of determining a tentative minimum term of imprisonment because it is the easier way. It reduces by a considerable degree the difficulties of institutional management, because it allows the routine of the institution to disregard the personal needs of the individual and to substitute therefor a rough classification which does not demand close attention to individual requirements. The inmates are undoubtedly much more satisfied if they know exactly what time they must serve, and therefore they cooperate more readily with the managers and employees of the institution in the development of institutional work. At least this is true where men have been herded under conditions rendering it impossible for employees to give such personal attention to the work as would enable them to reward inmates who perform meritorious service, and to demerit those who fail to do so.

We must demand such increases in staff and such changes in management as will make possible absolute observance of the indeterminate sentence wherever it is applied—as modifications serve only to interfere with the best management. Institutional officers should not allow themselves to be lured by the easier course, but should insist upon so perfecting the indeterminate organization as to give due credit for work performed, and to demerit those who fail to give good accounts of themselves. In the State of

Indiana, where the indeterminate-sentence law has been in operation eighteen years, no minimum is fixed, and a prisoner serving under such a sentence never knows exactly at what time he may be paroled.

Those who hold that the indeterminate sentence cannot be operated equitably advocate for the most part the old system, which has attempted to provide a definite penalty for each offense, rather than to provide a penalty to suit the needs of the particular offender. Inmates of correctional institutions who have had experience under the old system, and who have become more or less institutionalized, are practically unanimous in opposing the indeterminate sentence if applied to themselves. They point out that under it one man may be required to serve as long a term for disorderly conduct, or a minor misdemeanor, as another man may face for a felony. This they hold to be unfair. They oppose the indeterminate sentence, too, because of its very indefiniteness. They argue that it is unfair to keep them in suspense as to when they are to be discharged—unfair not only to them, but to those dependent upon them, or to those interested in obtaining work for them upon discharge.

Those who have long prison records object to the indeterminate plan because, they say, they have paid the penalty imposed by law for previous offenses, and, therefore, it is unfair for the parole board or commission to take into account previous convictions in fixing their term of imprisonment under later sentence.

Prisoners must be made to understand the advantages of the indeterminate plan for those who wish to

acquire training which will permit them to become self-supporting after discharge. There can be no compromise with the old system. Its abject failure is notorious. It is difficult for the families of prisoners to plan for the future if they do not know when the head of the house is to be discharged. It is difficult for employers to hold positions open for men committed to prison. To meet these legitimate demands for information the Parole Commission of the city of New York is experimenting with the group and marking system, to which reference has been made.

Criminal lawyers and others plead constitutional barriers against the indeterminate sentence. They say it permits the imposition of a greater penalty in one section of a State than in another, or the imposition of the greater penalty for the lesser of two offenses.

Advocates of the indeterminate sentence need not fear that constitutional objections will prevail. The Indiana Law was upheld by the Supreme Court of that State in 1898. The principle has been upheld again and again.[1] The New York State courts have held that greater punishment may be provided in one section of the State than in another for the same offense.[2]

[1] See People *ex rel.* Alexander *vs.* Warden, New York, 183; Woods *vs.* State, 58 L.R.A. (N.S.), 531; State *vs.* Whittaker, 35 L.R.A., 561; People *ex rel.* Clark *vs.* Warden, 39 miscell., 113; People *vs.* Madden, 120 Appellate Division (1st department), 338; People *ex rel.* Bettram *vs.* Flynn, 55 miscell., 22; People *vs.* Adams, 176; New York, 351.

[2] See matter of Bayard, 25 Hunington, 546; Commonwealth *vs.* Hitchings, 5 Gray, 482–486; Cooley, *Principles of Const. Law*, 296; Cooley, *Constitutional Limitations*, 390; People *vs.* Schultz, 149 Appellate Division (2d department), 844, affidavit in 206 New York, 627; 848; People *vs.* O'Malley, 219 United States, 128; Mutual Loan Company *vs.* Martel, 200 Mass., 421.

Opponents of the indeterminate plan argue that it increases expenses by increasing the congestion of prisons; that it increases the average number of prisoners held in a particular institution at a particular time—in the first place by increasing the average length of sentence, and in the second place by increasing the number of commitments where the plan offers the judge an escape from the responsibility of determining whether a man should really be committed or not, and if committed, for what length of time. Since this responsibility is shifted to a parole commission or board of managers of an institution, a man must serve a certain time in any event before his case can be fully investigated by those in utter ignorance of it until the prisoner arrives at the institution. Further opposition centers on the added cost of operating the parole system. It is somewhat difficult to obtain definite information bearing upon these points; but if this argument is valid, then there is no foundation for the contention of those who oppose the indeterminate plan on the ground that it means release after short terms instead of terms sufficient to pay a proper penalty. Statistics in Indiana are fairly accurate; and there this law has operated to extend the average term in the State prisons by a year or more, and in the State reformatory by from seven months to a year.[1]

Detailed figures taken from the same report for the Indiana State Prison are shown on the following page.

[1] Butler, Amos. W., "The Operation of the Indeterminate Sentence and Parole Law," Proceedings American Prison Association, Oakland, California, meeting October, 1915; Indianapolis, 1916.

Average Time Served Under Definite Sentence as Compared with Indeterminate Sentence

CRIME	Number Men	AVERAGE TIME SERVED								
		Definite Sentence 1890			Indeterminate Sentence 1900			Indeterminate Sentence 1906		
		Yrs.	Mos.	Days	Yrs.	Mos.	Days	Yrs.	Mos.	Days
Petit larceny . . .	110	1	2	10	1	11	26	2	5	6
Grand larceny. .	77	1	10	12	2	10	13	2	11	26
Burglary	62	2	4	17	3	1	23	4	9	2
Assaults and battery to kill. . . .	14	2	11	. . . .	2	6	1	3	6	2
Forgery	11	2	. . . .	27	2	2	23	2	8	10
Receiving stolen goods	6	. . . .	11	. . . .	1	8	11	3	6	15
Rape	6	2	3	10	3	1	. . . .	3	. . . .	9
Perjury	4	1	10	22	2	2	22	2	2	19
Manslaughter . .	4	1	9	. . . .	4	4	18	2	6	10
Arson	4	3	6	7	1	7	10	3	6	12
False pretense . .	4	1	6	7	1	9	20	2	6	9
Incest	2	1	9	. . . .	3	3	16	4	6	. . . .
Total	304	2		2	2	6	25	3	2	7

A reply to the plea of added expense is found in this —that the indeterminate plan has operated to reduce the number of recidivists, and thus to reduce eventually the number of persons who must be cared for in institutions at the expense of the State. The percentage of recidivists, in fact, is much smaller than under the definite sentence. Again, men are able to earn their living, and often support families as well, while on parole; whereas they must be boarded at the expense of the State if kept in prison; and in many cases their families as well must be provided for by the State or by private charity.

The detailed figures for the Indiana Reformatory are as follows:

Average Time Served Under Definite Sentence as Compared with Indeterminate Sentence

CRIME	AVERAGE TIME SERVED											
	Number Men	Definite Sentence (1)			Number Men	Indeterminate Sentence (2)			Number Men	Indeterminate Sentence (3)		
		Yrs.	Mos.	Days		Yrs.	Mos.	Days		Yrs.	Mos.	Days
Grand larceny.	69	2	..	22	50	2	2	14	69	3	....	22
Petit larceny..	133	1	3	...	150	2	2	....	133	2	6	24
Forgery.....	15	2	..	27	10	2	8	7	15	3	2	19
Burglary.....	19	2	..	12	33	3	1	29	19	4	6	11
Robbery.....	9	1	10	21	3	3	3	14	9	3	4	19
False pretense..	10	1	5	27	2	1	....	15	10	3	1	11
Manslaughter .	3	4	7	20	8	2	1	22	3	3	5	14
Assault and battery.....	29	2	1	8	26	2	7	18	29	3	1	6
Rape.....	4	4	1	22	4	2	9	11	4	2	4	28
Perjury.....	2	1	9	4	2	2	6	2	2	2	....	28
Murder.....	3	2	..	...	...	....	....	....	3	3	1	25
Embezzlement.	2	1	4	1	...	....	....	....	2	1	6	23
Blackmail.....	1	..	11	...	...	....	....	....	1	1	6	29
Incest.....	1	3	9	...	...	....	....	....	1	2	11	9
Arson.....	...	..	..	...	2	1	9	1	...	....	....	....
False claim....	...	..	..	...	1	2	....	....	...	....	....	....
Receiving stolen goods.....	...	..	..	...	4	1	3	24	...	....	....	....
Seduction.....	...	..	..	...	1	2	4	3	...	....	....	....
Bigamy.....	...	..	..	...	1	2	....	10	...	....	....	....
Enter'g house to commit felony	...	..	..	...	2	3	11	....	...	....	....	....
An accessory after the fact of mansl'hter	...	..	..	...	1	2	2	11	...	....	....	....
Total.....	300	1	8	22	300	2	4	6	300	2	11	6

Taking into consideration these facts, there is usually a credit balance in favor of the indeterminate plan. This is particularly true in Indiana, where we have the figures covering a period of eighteen years, which are presented in the following table:[1]

Operations of the Parole Law, April 1, 1897, to April 1, 1915

	Reformatory, Jeffersonville	State Prison, Michigan City	Women's Prison, Indianapolis	Total
Served parole and given final discharge	3,211	2,078	133	5,422
Sentence expired during parole period..	298	137	24	459
Returned for violation of parole.....	715	641	42	1,398
Delinquent and at large.....	664	288	31	983
Died.....	87	59	8	154
Reporting Apr. 1, 1915	390	211	17	618
Total paroled.....	5,365	3,414	255	9,034
Percentage of unsatisfactory cases	25.7	27.2	28.6	26.3

	Reformatory, Jeffersonville	State Prison, Michigan City	Women's Prison, Indianapolis	Total
Earnings of paroled prisoners.	$1,537,495.46	$989,140.08	$3,563.86	$2,530,199.40
Expenses.	1,306,256.32	767,658.97	1,867.86	2,075,783.15
Savings.	$ 231,239.14	$221,481.11	$1,696.00	$ 454,416.25
Av. Savings.	$43.10	$64.87	$6.65	$50.30

Where the immediate expense appears to be greater there is an eventual profit to the commonwealth. By

[1] Butler, Amos P., Op. Cit.

saving men in the present, dollars are saved in the future, for the saving of men means an ultimate reduction or prevention of increase in expenditures. Furthermore, inconsistency is manifest on the part of those who protest a slightly higher cost of the indeterminate plan, yet countenance the mounting expenses incurred for extra courts, extra police, and added correctional institutions under the old plan.

What Experience Teaches. The indeterminate sentence sometimes is referred to as a new plan. It is not new. It has been applied in this country, beginning with the Elmira Reformatory, which was developed in 1872. At Elmira and many other reformatories there is a maximum period beyond which sentence to the institution may not extend. In some cases a minimum term is fixed by law. For several years the State of New York has had a modified form for first offenders committed to State institutions. Modified forms have been applied in State prisons and penitentiaries in several other States, and the results promise well for future development of the plan.

Mistakes have been made in the application of this system, as in the application of all systems; but if these mistakes are utilized for the better development of the law they will have served a useful purpose.

It may be that lack of funds to provide parole officers to supervise those released from prison has prevented investigations which would have resulted in the return of a greater number, thereby giving a statistical showing less favorable. But making due allowance for failure of the parole system, it is true that

results from the modified indeterminate plan have been superior to those from the definite plan. In fact, the superiority of the indefinite plan over the definite is indicated at every point.[1]

[1] See Appendix V for resolutions adopted at the International Prison Congress, Washington, October, 1910, approving the Indeterminate Sentence.

VIII

AUTOCRATIC GOVERNMENT AND DISCIPLINE

Kinds of Government. Institutional government may be divided as follows:

1. The Autocratic.
2. The Benevolent Despotic.
3. The Mixed Autocratic and Benevolent Despotic.
4. The Mixed Benevolent and Hamiltonian Republican.
5. The Representative Democratic.

Institutional government has actually been based upon types of government for nations and states.[1]

Men are divided as to what constitutes the best form of government for a nation. In like manner, they are divided as to what is the proper form of government for a correctional institution. In the field of national government very few are in favor of government by one man, an autocrat. More are in favor of a constitutional monarchy with a strong, central government which makes sufficient concession to popular rule to secure support of the people with other than purely coercive measures. The men who guided the United States through the periods of con-

[1] An analogy between the types of institutional government and the types of educational method will be found in the report of the Committee on Probation and Parole, submitted to the American Prison Congress at its meeting in October, 1915.

stitutional development and nation-building were divided into two great groups—the Hamiltonian Republicans and the Jeffersonian Democrats. The Hamiltonian Republicans believed in letting the popular will express itself in government eventually, but held that the popular will should make itself felt in conformity to a written constitution and a government divided into three departments—the Executive, the Legislative, and the Judiciary. In the first-named the people's choice was limited to the selection of the President and some other of the executives. In the Judiciary field at that time the people had no power at all. In the Legislative field the people's power was limited to the frequent direct election of members of the House of Representatives and the less frequent indirect election of Senators. The other group, the Jeffersonian Democrats, favored a more popular type of government. According to the Jeffersonian idea, government by the consent of the governed was the best type of government. That is to say, the very mistakes the people made would lead them to choose the good and reject the evil, and the process of improvement would be greatly quickened if the people were free to choose and not unduly restricted. The keystone of the Jeffersonian system is universal suffrage without regard to the voter's race, color, language, religion, mental, physical, or moral condition. The keystone of the Hamiltonian Republican theory is a written constitution, a supreme court holding supreme control over legislation and administration—because a government of checks and balances will tend to prevent hastily formed public opinion making itself felt—and restricted suffrage.

William George was probably the first man in

America to suggest the Jeffersonian idea as the proper basis upon which to build the government and discipline of an institution for juvenile offenders, known as the George Junior Republic, erected at Freeville, New York. Thomas Mott Osborne, formerly warden of Sing Sing Prison, New York, is probably the first man in America to suggest that such a plan should be applied to a great State prison.

Inasmuch as the kind of institutional government developed in the latter part of the eighteenth and first part of the nineteenth century continued almost to the present with so few modifications, we need to review carefully the development of government and discipline of correctional institutions.

According to the old theory, the offender forfeited all his civil rights and became a slave of the State, to be dealt with as the State saw fit. The brave and resolute officers who developed the older systems believed that the offender should be bound, beaten, flogged, and repressed as a slave, or given that more diabolical treatment, isolated confinement. We have already pointed out that the idea back of these repressive systems was not one of mere brutality or of savagery. Those who developed and administered the old prisons were frequently men of fine parts, but woefully mistaken and short-sighted. They were noted for many kindnesses to their charges, and believed that they tempered stern justice with mercy.

During the latter part of the eighteenth and the first part of the nineteenth century two systems of prison discipline were developed in England and in the United States. One was called the Separate System, and the other the Silent System. In America the

Separate System was known as the Philadelphia System, and the Silent System as the Auburn System.

The Separate and Silent Systems. The Separate System originated in England in 1790, and was first applied at the county gaol in Gloucester. In 1824 the magistrates of Glasgow reconstructed the Bridewell of that city on this plan. The Eastern Pennsylvania Penitentiary in Philadelphia was authorized by the Legislature in 1817. A great controversy arose before it was built as to whether the Separate or the Silent System—the latter prevailed in nearly all other American prisons—were better. In 1827 Captain Basil Hall, of the Royal Navy, visited several institutions in America, including the Eastern Penitentiary of Pennsylvania, Sing Sing Prison, Auburn Prison, the Connecticut State Prison at Wethersfield, and the House of Refuge on Randalls Island in the city of New York.

Captain Hall pointed out that the subject most under discussion in America at the time of his visit was the question of the reformation of the convict. Some, according to him, maintained that the Silent, or Auburn, System was best; others advocated the Separate, or Philadelphia, System. He described the difference between the two plans in the following language:

> The Auburn plan . . . consists in the strictest solitary confinement at night—in hard labour, but in rigid silence, by day, and always in company, though under constant superintendence; in solitary meals, under lock and key; in regulated marchings to and from their workshops;—in subjecting the prisoners to stripes for infractions of the prison rules, and in their never being placed in absolute solitary confinement, except as a punishment of a temporary nature; in having prayers morning and evening said

regularly by a resident clergyman, with whom alone the prisoners are allowed to converse, and that only on Sundays.

The Philadelphia plan is widely different from this. It is intended that the prisoners shall be subjected, during the day as well as night, to separate confinement, either in solitary idleness or in solitary labour; along with which they are to be allowed no more exercise than what they may themselves choose to take in their little courts. The keeper is the only person, besides the clergyman, who is ever to see them, and a Bible is to be placed in each cell. By these means it is expected that, while many of the prisoners will be reformed, a salutary terror will be spread over the evil spirits of the State, and crime will thus be doubly prevented.[1]

The captain condemned the Philadelphia System in the following language:

As far as I have been able to learn, all the experiments which have been tried in America on solitary confinement have proved its inefficiency for any purpose of reformation; while there is abundant reason to suppose that in very many cases—I believe a majority—it leads to insanity or to suicide. It is difficult, indeed, to see how any good can spring out of compulsory idleness in prison, when the whole analogy of external life proves it to be the parent of every mischief. It ought always to be borne in mind, also, that it is no part of the object of prison discipline to torture the prisoner, merely as a punishment for his offenses, independently of its effect as an example to society. Neither, of course, should a jail be made a place of amusement. It ought certainly to be rendered exceedingly irksome to the culprit; but, as far as he is concerned, its discipline, bodily and mental, should not be more severe than will make him

[1] Hall, Captain Basil, *Travels in North America in the Years 1827 and 1828;* printed for Cadell & Company, Edinburgh, 1829; vol. ii, pp. 347, 348.

fully sensible of the folly of his past ways. In order to accomplish this at the least expense of permanent human suffering, the criminal should, if possible, be so treated that when he gets out again, and starts afresh in the world, he should be less inclined to do mischief than he was before. The only serious doubt is, whether there is much chance of amendment taking place in a vicious and ill-regulated mind, if left to commune exclusively with its own thoughts, in solitude, with or without labour, but deprived of every ray of cheerfulness to lend efficacy and confidence to virtuous resolutions. The occasional visits of the clergyman may certainly relieve the fearful misery of absolute solitude; but unless the prisoner's mind be more or less habitually enlivened, even these lessons will fall on a soil unprepared to give them efficacy.[1]

The people of America had noted the evils flowing out of the mingling of all sorts of prisoners in the ordinary city prison. The Separate plan seemed then to offer the right sort of separation so that the inmate might not be contaminated by association with other prisoners. When Captain Hall visited the old jail at Philadelphia he was shocked. This intermingling of prisoners was described by him in the following forceful language.

Nothing, I thought at first sight, could be much worse than the scene which I now witnessed. Some of the prisoners had been sent there for petty offenses, some to take their trial for the most heinous crimes; but the whole mass of guilt, by conviction or by anticipation, or by mere suspicion, black and white, were all huddled indiscriminately together in a great courtyard, or under a long covered shed, where they were left to lounge about in absolute idleness and to indulge in the most unrestrained intercourse, forming a complete high school of practical iniquity.[2]

[1] Op. Cit, pp. 349, 350.

[2] Op. Cit, p. 352.

The man who advocated the Separate plan had no true conception of social living, social control, and social growth. Witness the following statement from the report of inspectors of the Eastern Penitentiary of Pennsylvania to the Legislature in 1830 — forty years after the establishment of the system, and after they had supplied the prisoners with work in their cells:

Intemperance and thoughtless folly are the parents of crime, and the walls of a prison are generally peopled by those who have seldom seriously reflected; hence the first object of the officers of this institution is to turn the thoughts of the convict inwards upon himself, and to teach him to think; in this, solitude is a powerful aid. Hence this mode of punishment, bearing as it does with great severity upon the hardened and impenitent felon, is eminently calculated to break down his obdurate spirit; and when that important object of penitentiary discipline has been gained (and in any prison it frequently is), and when the prisoner has once experienced the operation of the principles of this institution on a broken spirit and contrite heart, he learns, and he feels, that moral and religious reflection, relieved by industrious occupation at his trade, comfort and support his mental and physical powers, divest his solitary cell of all its horrors, and his punishment of much of its severity. The impression thus made, instead of being destroyed by the sneers of ruffians, is cherished and fixed by the officers of the prison.

One of the worst fallacies of which the defenders of this plan were guilty was that of inspiring terror. The system probably operated to stunt a man and to prevent his development, but that it inspired terror there is grave doubt.

In 1843 the great novelist, Charles Dickens, visited

the Eastern Penitentiary of Pennsylvania. He described his visit in his *American Notes*. He said:

Between the body of the prison and the outer wall there is a spacious garden. Entering it by a wicket in the massive gate, we pursued the path before us to its very termination, and passed into a large chamber, from which seven long passages radiated. On either side of it is a long, long row of low cell doors, with a certain number over every one. Above, a gallery of cells like those below, except that they have no narrow yard attached (as those in the ground tier have), are similar. The possession of two of these is supposed to compensate for the absence of so much air and exercise as can be had in the strip attached to each of the others in an hour's time every day, and therefore every person in this upper story has two cells adjoining and connected with each other.

Standing at the central point, and looking down these dreary passages, the dull repose and quiet that prevails is awful. Occasionally there is a drowsy sound from some lone weaver's shuttle, or some shoemaker's last, but it is stifled by the thick walls and heavy dungeon door, and only serves to make the general stillness more profound. Over the head and face of every prisoner who comes into this dark, melancholy house a black hood is drawn; and in this dark shroud, an emblem of the curtain dropped between him and the living world, he is led to the cell, from which he never again comes forth until his whole term of imprisonment has expired. He never hears of wife or children; home or friends; the life or death of any single creature. He sees the prison officers, but with that exception he never looks upon a human countenance or hears a human voice. He is a man buried alive, to be dug out in the slow round of years; and in the mean time dead to everything but torturing anxieties and horrible despair. . . .

Every cell has double doors; the outer of sturdy oak, the other of grated iron, wherein there is a trap through

which his food is handed. He has a Bible, a slate, and a pencil, and, under certain restrictions, has sometimes other books, provided for the purpose, and pen and ink and paper. His razor, plate and can, and basin hang upon the wall or shine upon the little shelf. Fresh water is let on in every cell, and he can draw it at his pleasure. During the day his bedstead turns up against the wall and leaves more space for him to work in. His loom or bench, or wheel is there; and there he labours, sleeps and wakes, and counts the seasons as they change and grow old.

Dickens took account of the strong arguments made on behalf of the system, but was not impressed thereby, as is evidenced by the following:

The system here is rigid, strict, and hopeless solitary confinement. I believe it, in its effects, to be cruel and wrong.

In its intention, I am well convinced that it is kind, humane, and meant for reformation; but I am persuaded that those who devised this system of prison discipline, and those benevolent gentlemen who carry it into execution, do not know what it is that they are doing. . . . I solemnly declare that with no rewards of honours could I walk a happy man beneath the open sky by day or lie me down upon my bed at night, with the consciousness that one human creature, for any length of time, no matter what, lay suffering in this unknown punishment in his silent cell, and I the cause, or I consenting to it in the least degree. . . .

My firm conviction is that, independent of the mental anguish it occasions—an anguish so acute and so tremendous, that all imagination of it must fall far short of the reality—it wears the mind into a morbid state, which renders it unfit for the rough contact and busy action of the world. It is my fixed opinion that those who have undergone this punishment, must pass into society again morally unhealthy and diseased.

The criticisms of the Philadelphia plan did not in any way deter its advocates. In 1837 William Crawford and Whitworth Russell, inspectors of prisons for the Home District of London, published their report upon the Separate and Silent systems following their visit to the United States—particularly the Eastern Penitentiary of Pennsylvania, Auburn, and Sing Sing prisons of New York.[1]

A large part of their report was made up of arguments to show that the prisons which had been developed according to the Separate System did not allow the fullest development of the system. They argued that the Separate plan was best because the Silent System completely failed to prevent communication, which they believed to be the chief reason why prisons hitherto had failed to meet the requirements. The evils of communication and living together, they pointed out, were many. Chief among these were, first, that the young or first offender was brought into contact with the old offender, and was taught all the tricks of the convict trade; second, that the young or first offender, thus coming into contact with the habitual or hardened offender, became accustomed to criminal life and lost his fear of criminals and prisons; third, acquaintance with criminals made him a marked man when he was released from prison, likely to be recognized at any time by well-known hardened offenders, whose very recognition would mean the loss of position, loss of friends, and return to criminal life as the only refuge and the only means of support. They expressed in the fol-

[1] Their report was published in full by the Philadelphia Society for Alleviating the Miseries of Prisoners.

lowing language some of their chief arguments against the Silent System:

The difficulty of enforcing the prohibition of intercommunication under this system is felt and acknowledged by some of its warmest advocates. The objection which this fact involved appears to us fatal to the whole measure: for let us consider for a moment the effect which this abortive attempt at securing a main object of the system must necessarily have upon the prisoners and upon the numerous monitors and wardsmen employed to enforce it. Under the former the persuasion of the obvious fact that communication cannot be prohibited will operate most prejudicially; it will act at once as a constant spur and a premium to their ingenuity, which will have abundant scope to exercise itself in the multiplied and perplexing engagements of the monitors. We ought to bear in mind, likewise, the adroitness and tact which the human mind and frame gradually but surely acquire by practice, when the man is impelled by necessity or by strong inclination; both of which are known to enable the agent to accomplish purposes which, to himself, as well as to others, had appeared to be utterly unattainable. The truth of this is demonstrated by the following among the remarkable facts, that in the prison of Coldbath Fields, in which the Silent System is believed to be brought to the greatest degree of perfection under the management of a highly intelligent and able governor, who has at his command every possible advantage for working the system, there were, in the year 1830, no less than fifty-one hundred and thirty-eight punishments for talking and swearing.

It is impossible to convey an adequate idea of the dexterity in fraud and artifice in which the system has been the means of training the prisoner; and, once it were to become fixed and general by authority, we do not hesitate to say that we defy the most vigilant and zealous superintendent to defeat the contrivances which the prisoners

would employ to baffle it. Now, while the prisoner's mind is thus occupied with attempts to elude the vigilance of his monitors (attempts which, from the very nature of the case, must often prove successful), or amused by the watching and secretly applauding the attempts of others, can it be believed that under such circumstances his mind can receive any salutary impression of the real nature of his condition? . .

These writers thus describe one of the chief evils of the Silent System—its necessary dependence upon inmate monitors:

Is a culprit probably the greatest delinquent within prison walls, probably the most ingenious villain, the most finished hypocrite, certainly one of the most guilty in the eye of the law (for it is only from those whose terms of imprisonment are long that such agents are selected)—is this the man to be released from the condition of a criminal suffering for his offenses, and placed in a station which invests him with authority, which is every moment felt over his fellow-prisoners, every one of whom is perhaps less stained with moral turpitude than himself—in confirmation of this reasoning, we found it stated by the governor of Westminster Bridewell "that the oldest thief makes the best monitor."

Captain Hall has probably given us an excellent description of the Silent System as it was carried out at Sing Sing and Auburn prisons. From his description of his visit to Mount Pleasant Prison at Sing Sing it would appear that the good Captain Hall was entirely taken in by the appearances of the Silent System. He wrote:

There was an air of confident authority about all the arrangements of this place, which gave us a feeling of per-

fect security, though we were walking unarmed among cutthroats and villains of all sorts. There was something extremely imposing in the profound silence with which every part of the work of these people was performed. During several hours that we continued among them, we did not hear even a whisper, nor could we detect in a single instance an exchange of looks amongst the convicts, or what was still more curious, a sidelong glance at the strangers. Silence, in fact, is the essential, or I may call it the vital principle of this singular discipline. When to this are added unceasing labour during certain appointed hours, rigorous seclusion during the rest of the day, and absolute solitude all night, there appears to be formed one of the most efficacious combinations of moral machinery that have ever perhaps been seen in action.

He seemed to approve every feature of the system, some of which have been found to be unsatisfactory and as unwise and as destructive of development and reformation as were certain features of the Separate System. He was also much impressed by the night watchman in the cell block, of whom he said: "His feet being shod with moccasins, his tread is not heard, while he himself can hear the faintest attempt at communication made by one prisoner to another." The captain relates how the cell block seemed to be constructed so that the least sound on the part of a prisoner in any of the cells would be conveyed immediately to the watchman.

The very silence of the system, while it seemed oppressive to him, seems to have had his approval.

Crawford and Russell, in their report, cite the fact that M. Blouet, an architect, was commissioned by the French Government to visit America and examine the penitentiaries there: that he was assisted by M.

de Metz, Conseiller à la Cour Royale; M. Gustave Davaux, and M. Jean Varel; and that they were united at the end of their investigation in urging the advantages of the Separate System. They also point out that the Silent System carried out at Auburn and Sing Sing was conducted on principles of extreme severity, and that the Eastern Penitentiary of Pennsylvania, conducted on the Separate plan, was working satisfactorily and with marked success.

The Silent System thus condemned by these writers was the system prevailing at that time in most prisons in the United States. Indeed, it continued, with few modifications, in most of the State prisons and penitentiaries almost to the present time. Some of the weaknesses of the Silent System between the time these men wrote and the present were, of course, abated by the classification of prisoners into groups. But Crawford and Russell had no faith in classification at the time they wrote. They say:

> If the classification be regulated by the nature of the imputed offense, it is certain that, as crimes differing widely in magnitude are classed under general terms, prisoners of every variety of character must necessarily be placed together. Even were this not the case, the absurdity of classification would be apparent from the fact that many who have been before in prison for serious crimes are subsequently charged with minor offenses, and are consequently associated, on their commitment, with persons innocent of imputed crime (in detention before trial), and with young and inexperienced offenders. If again the classification proceed on an assumed knowledge of character, by what means can such knowledge be

attained? By what inquiry and on what evidence are we to arrive at the motives, dispositions, and habits of prisoners? [1]

The same writers point out that prisons have failed to deter the criminal, notwithstanding the development of plans of silence and the provision of hard labor. According to them the blame rests upon the Silent System. They say:

. . . The cause is obvious: so long as prisoners are permitted to associate, the intercourse, however limited, cannot fail to destroy the effect of the strictest discipline that may be enforced; and however vigilantly silence may be executed, the mere sight of and occasional exchange of thoughts with other prisoners tends altogether to destroy that feeling of loneliness which is the greatest and most judicious of all moral punishments.

The Silent System has no tendency to incline the prisoner to turn his thoughts upon himself, to cherish contrition, to reconsider his life and prospects, nor to estimate the wickedness and unprofitableness of crime; it can give birth to no firm resolution, nor settled determinations of amendment. This salutary power we believe to belong pre-eminently to the plan of individual separation, which, however, besides its deterring qualities, is inestimable as an instrument of moral and religious improvement. . . . We have had some experience of the character of criminals, and are persuaded that there are periods in the lives of even the most hardened when the mind is awakened to reflection and the heart overwhelmed with sorrow.[2]

[1] Extracts from the Second Report of William Crawford and Whitworth Russell, inspectors of prisons for the Home District of London, 1837; published by the Philadelphia Society for Alleviating the Miseries of Prisoners.

[2] Crawford and Russell, Op. Cit.

Both of these repressive systems subordinated the individual entirely to the will of the superior governor. In this way they were pure autocracies, modeled after the severest examples of the autocratic state.

IX

OTHER SYSTEMS OF GOVERNMENT AND DISCIPLINE

The Benevolent Despotic. The first fundamental break in these systems was initiated by Captain Alexander Maconochie, who was superintendent of the English prisons established in Tasmania, then known as Van Dieman's Land. The system was carried out more fully by Sir Walter Crofton, director of Irish prisons, from whom the system gained its name. Captain Maconochie's attention was directed to the improvement of institutional work by enlisting the interest of the prisoner. He apparently believed that the superintendent of a prison should be a sort of benevolent despot, rewarding men for services performed in the form of marks or credits which should take the place of money, as a pecuniary reward for work performed. He had outlined the plan to the Transportation Committee of the House of Commons in 1837.

"Maconochie proposed that the duration of sentence be measured by labor and good conduct, with a minimum of time but no maximum; that the labor thus required being represented by marks, a certain number of these, proportioned to the original offense, be required to be earned in a penal condition before discharge; and that according to the amount of work

rendered the proportion of them should be credited day by day to the convict, and a moderate charge be made, enough for all provisions and other supplies issued to him; should he misconduct himself, a moderate fine to be imposed; only the clear surplus, after all similar deductions, to count toward his liberation." The captain said he "sought to place the prisoner's fate in his own hands, to give him a form of wages, to impose on him a form of pecuniary fines for his prison offenses, to make him feel the burden and obligation of his own maintenance, and to train him, while yet in bondage, to those habits of prudent accumulation which after discharge would best preserve him from again falling."[1]

The system developed by Sir Walter Crofton may be described as follows:

The period of cellular incarceration was served at Mountjoy, where there was a prison in two departments, one for men and one for women. The second stage was that of "progressive classification," a phrase of which he was the author. His male prisoners were transferred from Mountjoy to Spike Island, where they were divided into five classes: the probation class, third, second, and first classes, and the advanced class. The probation class could be skipped by prisoners who had made a good record at Mountjoy. The majority of those transferred were placed in the third class, where they had to earn nine marks per month for six months, or fifty-four marks in all, as the condition of promotion. The number of marks to be earned in the second class was the same; and in the first class twice as many, so that they could not pass from the first to the advanced class in less than one year. Under the English system they would then have been entitled to a ticket of leave; but Sir Walter would not grant it until

[1] Quoted by Wines, F. H., Op. Cit., pp. 186, 187.

after a test had been applied, in a condition of comparative freedom, at a third prison, called an intermediate prison, at Lusk, where they slept in movable iron huts and were occupied almost precisely as freemen would have been, in farming and manufacturing. The prison at Lusk had neither bars, bolts, nor walls. Its aim was to make practical proof of the prisoner's reformation, his power of self-control, his ability to resist temptation, and to train him for a considerable period—never less than six months—under natural conditions, and so to prepare him for full freedom by the enjoyment of partial freedom as a preliminary step. The success of Lusk was largely due to the extraordinary capacity of the teacher there employed, Mr. Organ, whose name is famous in prison annals.

The female prisoners served the second stage of progressive classification at Mountjoy, but were transferred for the third or intermediate stage to Golden Bridge, three miles from Dublin, which was a Refuge, presided over by a Sister of Charity. Since Sir Walter Crofton ceased to be the Director of Irish Convict Prisons, the English Government has abolished the intermediate stage.[1]

The Elmira System. The first development of the Irish System in America was made by Zebulon R. Brockway, superintendent at Elmira Reformatory at Elmira, New York. The institution was surrounded by a high wall. The inmates were housed in a cell block. While it was originally intended that considerable work should be done on the farm outside the walls, as the institution developed the inmates were given work in the foundries, machine shops, and other plants operated as a part of the practical trade school.

All inmates, upon admission, were placed in the

[1] Wines, F. H., Op. Cit., pp. 190, 191.

second grade, and, by perfect conduct, at the end of six months, could earn admittance into the first grade, or by failure to meet requirements would fall into the third grade. The repressive and terrorizing characteristics of the Separate and Silent systems were mitigated by a discipline based upon the Silent System, but calculated to inspire the interest and enthusiasm of the inmate. Everything was calculated to interest the inmate by giving him something tangible to achieve which he could achieve, and by giving him some tangible reward therefor; all of which combined to give him that greatest of rewards, release upon parole before the end of his period of sentence.

Mr. Brockway did not believe that the inmates should have anything to do with the government of the institution, but he regarded them practically as children who needed the firm but intelligent guidance of a father. He had been trained in an old-fashioned New England home, and while he was, as he states, "no prude," he believed that young people should be placed here in an environment which would require them to respond to the higher and nobler impulses of life. He himself explains how he found it impossible to depend entirely upon demotions to the third grade as a means of punishment. He found it necessary to resort to the infliction of blows; although he contended that it was not the force behind the blow which was important, but the mere act of delivery of the blow itself was the salutary means of causing the incorrigible or refractory inmate to change his manner of thought and to begin anew.

This progressive superintendent was among the first to recognize that the treatment which had been applied in insane asylums should be introduced in in-

stitutions for the abnormal, or for those not entirely able to control themselves under certain circumstances. This treatment is known to-day as hydrotherapy, a system of hot and cold water baths given under direction of the physician in such a way as to quiet the patient and to place him in full control of his faculties.

Thus, according to the discipline of this institution, the superintendent was an autocrat or a despot; but his despotism was tempered with benevolence of purpose, and a point of view entirely different from that which defended the Separate, and especially the Silent, System. The monotony of the Silent system was broken by free discussion in the school class-rooms, and at other times; but conversation was rarely permitted between inmates.

The Mixed Autocratic and Benevolent Despotic System. Another development of discipline which has characterized some of our older reformatories and better State prisons was partly autocratic and partly benevolent despotic. While to outward appearances the discipline is conducted according to the Autocratic or Silent System, kindness and cheerfulness so permeate the plan as to provide work and activities which are developmental and reformative in character, as against the despotic and repressive tendencies of the Separate and Silent systems. A striking example of this discipline is that at the Minnesota State Prison, where little communication is permitted between the prisoners, except on certain occasions, and then under supervision, but there is a great system of workshops, where men learn a trade and turn out the best of agricultural implements. In other words, there is the wholesome appeal to that which is constructive in a man in his every-day work. At the same time,

the educational facilities, the Christian work by the chaplains, and the medical service are all calculated to guide the prisoner constantly away from evil thoughts and evil companionship.

This system regards the inmate as one who has failed to control himself, one who should be molded in the right direction without destroying his initiative and individual interest and enthusiasm. According to this plan, however, men are not depended upon to develop in the right direction without the constant spur of necessity and of intelligent direction by those in authority. This institution and other older reformatories in different parts of the United States are clearly good adaptations of the system of government of modern Germany.

Another institution of this type is the Great Meadow Prison, at Comstock, New York. Here the men are left more to their own resources and are allowed to go about the great prison farm without the close supervision which characterizes Stillwater and the older reformatories, even Elmira. The prison itself has no walls. The men are responsible to Warden William Homer, a fair-minded, big-hearted, benevolent despot, who believes he should hear all the recommendations the men make and determine, after discussion with them, the best things for them to do, his determination being more or less final. The only difference between this plan and the mixed benevolent and Hamiltonian Republican plan is that the men are not given any active part in the management, such as voting for officers who are to be placed in charge of them. This prison itself, of course, is the result of a classification to which are admitted those who are near the end of their prison terms, and those who are supposed to be

the best types of prisoners committed to Sing Sing, which is the receiving prison of the State. Those who fail to obey the rules of the institution are transferred to Clinton Prison, at Dannemora, so that the disciplinary problem is less acute than it would be otherwise. This in itself does not demand a differentiation in government and direction which would characterize a cosmopolitan institution to which all classes of men were committed.

The Mixed Benevolent Despotic and Hamiltonian Republican. The discipline developed by Dr. Katharine Bement Davis at the State Reformatory for Women, Bedford Hills, New York, is an excellent example of the mixed benevolent despotic and Hamiltonian Republican form of government. The superintendent occupies a position similar to that of the superintendent or warden of Great Meadow Prison, except that to this institution have been committed almost all classes of women. This has called for a segregation into groups according to character and conduct, so as to permit the application of a system of government based upon Hamiltonian Republican ideals. Under this plan the women are given opportunity to decide certain lines of conduct, and within certain limits to determine upon many activities. Certain restricted opportunities to vote upon the selection of those who are to occupy the Honor Cottage are given to those whose character and conduct have permitted them to continue as members of the regular inmate population. The Honor Cottage, so far as cottage life is concerned, is operated as a republic. Of course, in this case suffrage and power of government are granted to those who have carefully selected themselves, in accordance with the plan of government

imposed by the superintendent. The whole system is calculated to avoid the evils of control by those who are unable to formulate and maintain high standards of morals and discipline because of lack of training and experience, and because of their consequent failure to control themselves properly in the outer world.

The plan is a refinement of the Hamiltonian ideals. To each group of women is apportioned just enough power of self-direction and initiative to correspond with their ability to exercise the power. This grant of power is elastic, and may be modified from time to time by experience and circumstances. Those placed in the disciplinary building are regarded as beyond the pale of this type of government, and are placed in a position where they must conform to the will of the superior authority in almost every respect, and indicate their desire to begin again the community life before they are released. The confinement in isolation of a refractory inmate is not primarily for the purpose of punishment, but to lead the inmate to reconsider her condition and appreciate the benefits of her former freedom to such an extent that she will express a desire to return to that life. The plan of government as a whole is a development of the last stage of the Crofton prison plan; namely, the prison at Lusk, which had neither bars, bolts, nor walls. Its general aim is to furnish practical proof of reformation, of power of self-control, and of ability to resist temptation; it is the preliminary step to eventual release.[1] The difference between this system and the Elmira System is very marked, because of the greater freedom allowed. The institution is without walls,

[1] Wines, F. H., Op. Cit., p. 190.

and the girls are allowed to go about and to converse freely.

Doctor Davis explains this in her own language as "a system in which there is classification and promotion based on effort, self-government being given to the group which has shown that it desires and is capable of a certain measure of self-control. By those who believe in this method, it is held that inasmuch as rather a high percentage of our prisoners are mental defectives, and inasmuch as a large percentage have never learned to do anything but act on impulse, certain training for the good of the community, as well as for the good of the individual, is desirable before self-government is granted; but that this self-government should be granted so far as possible before release, in order that there may be a gradation from the anti-social period which existed previous to imprisonment through a rather firm régime up to the period of considerable freedom followed by parole."[1]

The modification of this plan wherein the self-governing group take a little more active part in the whole government of the institution has been worked out at the Preston School of Industry in California. In a recent report Mr. Calvin Derick, the superintendent, says:[2]

When a boy is received from the courts into the Preston School he is first taken in charge by another boy, a cadet who has nearly completed his time at the school and who has responded very satisfactorily to the course of training

[1] Report of the Committee on Probation and Parole, Dr. Katharine Bement Davis, chairman; submitted to the Oakland meeting of the American Prison Association Convention, October, 1915; proceedings of the convention published at Indianapolis, Indiana.

[2] For full description of this novel institutional government see Appendix A.

and treatment. This cadet officer meets the new boy as a friend and companion; he spends the first four or five hours with the new arrival, telling him a great deal about the institution and what is expected of him, and gaining from the new boy a great deal of information about his former associates, his home, his habits, and other matters. During this time the boy has been bathed, shaved, and dressed in State clothes. He has been given his supper and is now turned over to the receiving company, which is also in charge of cadet officials. Here he remains for three months.

During this period, the new arrival is required to pursue a certain course of study, which, upon completion, will admit him to residence in a self-government company. Without such study he may not become a voter or in any way participate in the government of the institution. The course of study contains a brief outline of English and American history, incident to the period preceding our American Revolution; a very good outline in civil government; a special study of the Preston School Republic Constitution and Laws, and some definite lines of reading. The cadet officers in charge of the receiving company make the new arrivals understand the importance of their being able to pass this examination, and point out to them in various ways the advantages enjoyed by the companies living under their own cadet officials, as compared with those living under strict State officers. This seldom fails to act as a spur, and so every boy is found putting his very best mental effort into the required course of study during the first three months.

In connection with this also is carried on a pretty rigid military drill and plenty of hard labor with pick and shovel. This arrangement allows a deliberate study of each boy and gives us a ready means of determining his powers of persistence and concentration; his ability to hold himself to a hard, disagreeable task, under the spur of future reward; his ability to adjust himself to an entirely new social order; his willingness to exert himself to the

utmost, industrially, in order to win commendation and consideration for useful citizenship. The arrangement offers a perfectly concrete, definite aim with a purpose to be gained.

During the first thirty days of his stay with us a very close and systematic study of the boy is made by the psychologist, the principal of the School of Letters, the disciplinarian, the officers of the receiving company, and the superintendent of shop work.

We have found a singular co-ordination of results as expressed by the scientific grading under the test and the general size-up afforded by the boy officials. With this information carefully classified, we find the population naturally divided into three general groups. Group one contains those of normal or nearly normal mentality, and representing about 23 per cent. of the population. Group two contains the backward, undeveloped, and slightly defective boys; that is, the high-grade morons. Group three contains the low-grade defective, commonly spoken of as low-grade morons and imbeciles.

Under this grading, then, the Preston School population is in three groups; the first group containing the higher-grade boys, which also includes many of the high-grade morons. From this group most of the government officials are chosen. The second group contains those who have not been able to satisfactorily complete the course of study referred to, who are noticeably defective, but who are easily managed, ready to make good, and who can be appealed to and spurred on by proper appeal to their best endeavors. These also enjoy the privileges of self-government, and ofttimes hold minor offices. However, it is easier to train them for military offices than civil . . .

Group three represents the very low grade, but is divided into two sections, the first section containing those who are easily moved and handled, and who, because of their tractability, are capable of being trained; the second section containing the so-called incorrigibles, those who can-

not live harmoniously with any one except under the strictest discipline, and who cannot have any direction whatever in the affairs of the company or of the institution. . . . These are under strict State control and do not mingle with the rest of the population.

Jeffersonian Democratic System. In theory and organization the government worked out by Mr. Thomas Mott Osborne at Sing Sing Prison, New York, is more nearly akin to the Jeffersonian Democracy than is that of the George Junior Republic, from which Mr. Osborne drew most of his ideas. During the college year 1905–06 Mr. Osborne delivered lectures at the Graduate School in Political Science at Cornell University, where I was a graduate student. In the course of these lectures he expounded his theory of government, which my notes reveal to be about as follows:

As a Jeffersonian Democrat I believe in government by the people. I believe people should be given full power and full responsibility, because it is only by exercising powers that people become able to exercise them. If they have full power and full responsibility, the people may for a time choose to have bad government, but they will the sooner learn how to appreciate good government and will secure it. If they wish to have bad government they should have it, because the best government is the government by the people. Experience has taught that.

The Hamiltonian Republican, on the other hand, believes in government by the best men, and while he makes concession to popular rule he wants to preserve the kernel of government by the best. He wishes to have all sorts of checks and balances placed in the way of the exercise of full responsibility by the people.[1]

[1] In all my experience I never have met with as frank acceptation of the ideas of the French mathematical philosophers as that expressed by

In its report to the American Prison Association the Committee on Probation and Parole of that Association apparently argues that Mr. Osborne is probably the best exponent of that system of government which corresponds to the Montessori System in education. The report says:

At Sing Sing to-day we find a very complete organization of the prisoners, by the prisoners and for the prisoners, inspired and infused, of course, by the spirit of Mr. Osborne. The prisoners are in almost complete control of the discipline. They have their representative body based on the shop as the political unit, each thirty-five men being given one representative in the council. At present this council chooses nine members as an executive committee which can divide itself up for special purposes—really a commission form of government. Very large privileges are given the prisoners as to correspondence, purchase of clothing, freedom to see visitors, a committee of prisoners receiving and showing through the institution such of the general public as visit there, freedom in way of recreation, amusements, etc. It is further contemplated to introduce a system of token money in which payment for all work performed shall be made, and out of which in turn the prisoner shall pay for food, clothing, postage, and whatever he has. Any surplus to his credit on leaving the institution is to be redeemed by lawful money. Mr. Osborne believes that it is only through practising the general principles of democracy, of self-government, and self-direction that the men can so develop their powers of self-control as to make it probable that they can return to society as social individuals.

Mr. Osborne does not personally believe in classification

Mr. Osborne in these lectures. Also, every month since Mr. Osborne has been in charge of Sing Sing Prison I have heard him speak and have found him constantly alluding to experiences within and without prison walls which lead me to conclude that his government at Sing Sing is really based upon this theory of democracy.

within the institution on a basis of character and conduct, holding that in the world good and bad alike meet, and that the mixture of good is a restraining and educating influence over the bad; that men must learn to resist temptation. In short, that so far as his personal relations to the community in which he lives go, a man in prison should live as normal a life as possible, the only difference being that he is restrained of his freedom. Mr. Osborne believes that the greatest possible success on parole will come through a system such as this, because the man has practised all through his period of incarceration that which he must practise when he leaves the fostering care of the institution. Mr. Osborne is first of all to admit that the system is not perfect; that in many ways it is in the experimental stage. He claims for it, however, the fundamental basis which is claimed by those who believe in the free development of the child nature.[1]

Originally they did not have a commission form of government at Sing Sing. Under the first organization there was an elected chairman of the executive group. This did not work well, and the commission form as outlined above was adopted as a substitute. The token money system has not been entirely successful, because it has not been possible to make provisions for redeeming it. There have been cases of gambling, and the like, in the token currency which have interfered; but the management believe that if the token currency could be redeemed, and if the industries of the institution could be so developed as to offer proper incentive and opportunity, the token currency system could be operated successfully.

[1] Report of the Committee on Probation and Parole to the American Prison Association, Op. Cit. This analogy of Mr. Osborne's plan of government at Sing Sing was submitted to Mr. Osborne and secured his approval before it was presented in the report.

The Best Type of Prison Government. The best type of prison government is that which is best synchronized with the stage of development of the groups of offenders to which it is applied. The type worked out at Preston School of Industry, California, is probably best adapted to meet the needs of many of the types of institutions outlined in the preceding chapter.[1] The mixed benevolent despotic and Hamiltonian Republican form must be applied, however, where all the offenders of the State are not properly classified and transferred to the special types of institutions enumerated. As long as there are cosmopolitan institutions there must be a special form of government for the disciplinary or low-grade group. The form of government for this group must be more or less autocratic and benevolent despotic. It is undoubtedly true that the benevolent despotic offers the offender more opportunities for self-expansion and self-growth than does the autocratic. Consequently, the tendency of the disciplinary government for the lowest group should be in benevolent despotic directions.

The form of government planned by Mr. Osborne for Sing Sing Prison may be applied in the special institutions where the best prisoners are collected; that is, institutions from which the incorrigible, the low-grade feeble-minded, the degenerate, the seriously abnormal, the insane, the old rounders, and the feeble inebriate have been removed.

During the adolescent period it will be difficult to inaugurate the Jeffersonian Democratic plan of government in full. For this age grouping it is probable that the Preston School development of the Hamiltonian Republican theory is to be preferred. There

[1] See Appendix I

is a trite but true saying that man, after all, is a lazy animal. This is particularly true of offenders who never have been trained to concentrate their minds upon earning a livelihood along conventional lines. There is, therefore, every reason for the adoption of a rather strict régime during the first period of imprisonment, the rigor being lessened gradually under the guidance of the superintendent, who works through his self-governing group. In this way the judgment of the superintendent is not based solely upon his own interpretation of the amount of self-government which inmates are capable of exercising. His ideas are constantly checked up by the group of inmates who view the government from the standpoint of the governed rather than from the standpoint of the governors; namely, the officers and teachers attached to the institution.

Under any successful plan of government there must be classification. If we are viewing the problem from the standpoint of a single institution, the classification must be more extended in a cosmopolitan institution than in the special institution outlined herein, which itself is built up through a method of classification embracing the correctional population of the State. At the time Crawford and Russell outlined the shortcomings of classification there was no science of criminology, and it was not possible to classify prisoners on the basis of their character and conduct after a careful examination of each individual prisoner had been made, in order to establish his mental, moral, and physical status. At the time Crawford and Russell wrote their report the measurements of the skull, the cranium, the shape of the forehead, the face, the slant of the eyes, the length of the forearms,

etc., were rarely if ever made. Serious studies of this sort began several years later, and probably they reached their climax in the monumental work by Dr. Charles Goring,[1] published in 1913, in which he presents an intensive statistical study of four thousand male convicts. To that study Doctor Goring devoted about twelve years. It marks the close of an epoch in which reliance was placed upon external measurements to establish a basis of classification. Its fallacy is carefully outlined by William White in his review of Doctor Goring's book. In one place Mr. White says:

> Taking the more limited concept of "thief." One man may steal under the influence of the prodromal stage of paresis, who has been previously of high moral character; another man may steal under the excitement of a hypodermic attack; another may steal as a result of moral delinquency; another as a result of a high-grade mental defect; and another under the influence of alcoholic intoxication, etc., and so on; and how by any possibility a grouping of these men together can give us any light upon the general concept of "thief" is beyond my power to comprehend.[2]

The new classification now being introduced is based upon studies of the individual offender, the most comprehensive of which are contained in Dr. William Healy's great book, *The Individual Delinquent*, first published in 1913.[3]

The classification of the prison population should be based upon studies of this kind, which, if utilized by competent experts, are reliable.

[1] Goring, Charles, *The English Convict.* His Majesty's Stationery Office, London, 1913.

[2] White, William, "The English Convict," a review in the *Journal of American Institution of Criminal Law and Criminology*, vol. v.

[3] Healy, William, M.D., *The Individual Delinquent.* Little, Brown & Co., Boston, 1915.

Eventually the psychologist, the neurologist, the psychiatrist, and specialists in brain and nervous diseases must be relied upon to furnish to the superintendents of institutions information in accordance with which the government may be progressively modified in the direction of self-control and greater freedom wherever possible. Inmate co-operation and government thus checked up by a scientific staff and by the superintendent may be depended upon to furnish the degree of freedom required; upon the one hand, without the abuses of control which may flow from Jeffersonian Democratic government, operated without the check of the benevolent despot; and, on the other hand, may be relied upon to prevent the abuses of governmental control by a capable benevolently despotic superintendent developing government in directions which crush individual initiative.

Abuses will creep into any institutional organization, even of the special type hereinbefore outlined. Wherever the detailed supervision of officers is turned over to inmates there is danger that relatively innocent men may be contaminated through contact with older men in positions of superior authority. As Crawford and Russell point out, men of institutional experience and strong mentality are naturally the men who find their way to the top in any institution, whether self-governing or not. Their power to do good or harm increases through the control vested in them, so that there must be supervision, of the right kind, over inmate government. Some of these older men, of course, may have determined to give up their lives of criminality, and as a consequence may be more helpful than less experienced men as supervisors of the inmate population; but no superintendent has the right to

allow men of this type to lord it over less experienced inmates, unless he is reasonably sure that they have sincerely determined to give up criminality; otherwise, unless exceptional care is exercised, the so-called underworld will control our correctional institutions as well as sections of our cities.

Supervision of inmate government, to be effective, must, of course, be more or less invisible, and on the other hand must not be regarded by the inmates as clandestine and spying. A manager of an institution cannot succeed unless he knows what is going on every minute in the day, any more than the superintendent of a great steel plant can supervise the plant unless he, too, is informed of what is going on in every nook and cranny. Because of the danger of escape, and other perils, the superintendent must be in a position to be informed of infraction of rules, and of attempts to escape immediately after the attempt is made. Any system of government which will not permit this ought not to be tolerated.

Another test of the type of government is the attitude of the supervising officers toward their work. In a properly organized institution they should be teachers and instructors rather than guards to preserve order; except, possibly, in the institution for the wilfully delinquent. In other words, the personality of a teacher should take the place of the old-fashioned guard or keeper with revolver and club.

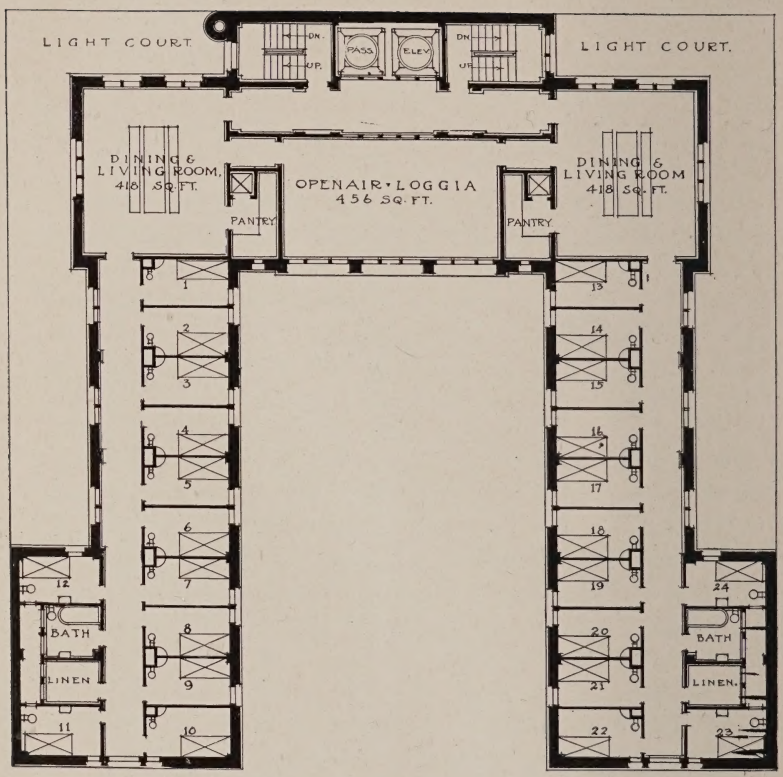
Another test of efficiency of governmental administration is the work performed by the inmates. Wherever the offenders are able to work they should work during the ordinary working-day. If the institutional government is such as to allow shirking and idleness, it ought to be changed.

X

INSTITUTIONAL ORGANIZATION AND TREATMENT

Such institutional treatment of the individual offender as has been suggested calls for an almost complete reorganization of existing institutions, so that they may be specialized in substitution for the more or less cosmopolitan prisons and reformatories of the present. This in turn will call for rearrangement of the penal law and the organization of the institutions under central authority—to the end that there may be no conflict of jurisdiction, and no deviation from the set principles laid down for the government and development of the correctional system of the State as a whole. Many have urged that the development of such a centralized co-ordinated correctional system means necessarily the construction of new buildings. If financial conditions do not interfere, this of course would be most desirable; but it is not impossible to utilize to considerable extent existing buildings and equipment. The problem involves, first, the right sort of penal laws; second, the right sort of centralized administration; third, the right sort of administration within the institution; fourth, the right sort of institutional buildings and equipment.

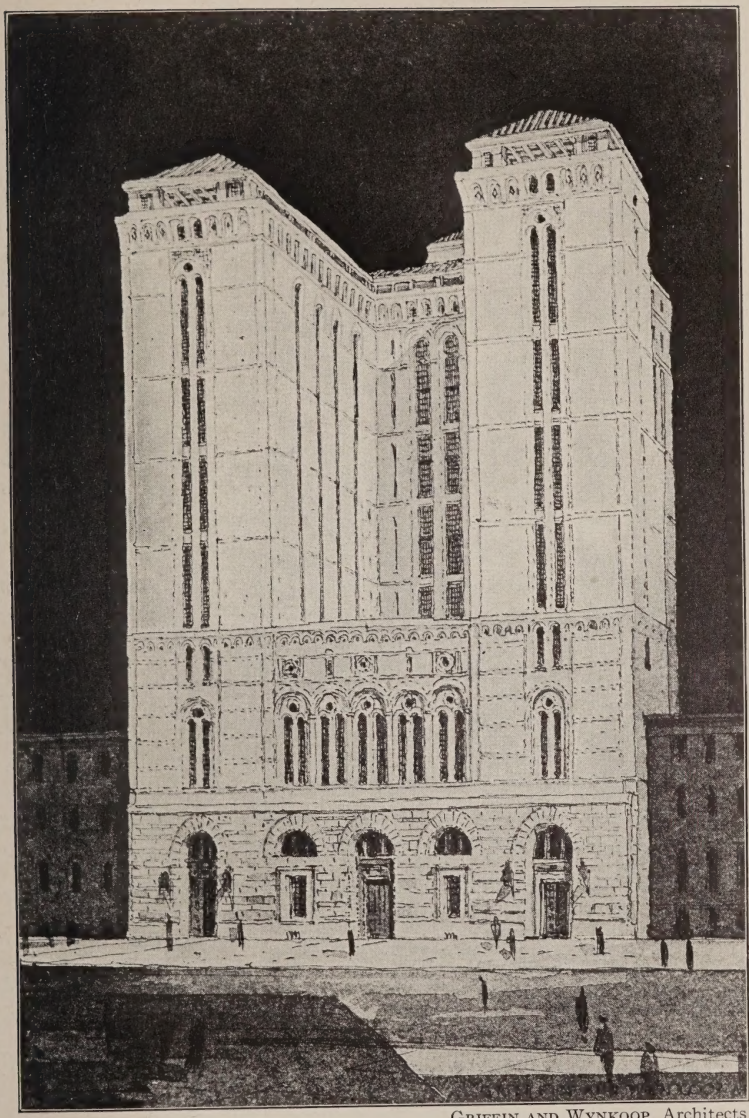
Assuming, then, that we have our courts reorganized along the lines recommended; that the case of each



TYPICAL DETENTION FLOOR PLAN.

GRIFFIN & WYNKOOP ARCHTS.

FLOOR PLAN, DETENTION HOME FOR WOMEN, TO BE ERECTED IN NEW YORK CITY



GRIFFIN AND WYNKOOP, Architects

PERSPECTIVE FROM TWENTIETH STREET OF DETENTION HOME FOR WOMEN
NEW YORK CITY

offender is to be handled tnrough the suggested clearing-house; that the probation system be improved along the lines indicated; that the proper classification of offenders be made, and that the Indeterminate Sentence Law be adopted as advocated—how should the correctional institutions of the State be organized to function properly in co-ordination with the other agencies established for care and treatment of the offender?

Prison or Hospital? Some students of the subject believe that hospitals should be substituted for prisons. Those of widest experience, while conceding the necessity for hospital treatment in certain cases, insist upon proper and adequate facilities for the educational, industrial, or agricultural training which is so sorely needed by the average offender, and for handling the lower-grade feeble-minded, the abnormal, the degenerate, the incorrigible, the insane, and the able, wilful offenders. What, then, should be the proper organization of a correction department?

First. Adequate detention prisons, where the offender awaiting trial may have wholesome food, a clean bed, a clean cell or room, plenty of light and fresh air, good medical attention, opportunity for exercise, recreation, reading, and writing, and such privacy as will prevent his contamination through his contact with hardened or degenerate offenders.

Second. A classification institution where all offenders shall be committed by the courts immediately after conviction. Division of those committed thereto into groups to prevent the mingling of hardened and degenerate offenders with first and minor offenders. Isolation and hospital treatment wherever either is necessary; special dietaries and balanced rations, and

careful study of each individual offender. The staff of such an institution should include experts in medicine, sanitation, neurology, psychiatry, and psychology, supplied with the latest and best scientific and other apparatus.

In addition to the staff of experts there should be a capable corps of field workers to investigate the environmental and home conditions of the offender and to check up his statements as to educational and industrial experience.

Upon completion of the period of study, observation, and report, and after a thorough discussion of all points, the type of institution to which the offender is to be committed should be determined—if he is not to be released upon parole. In such institutions the old distinction between misdemeanors and felonies should be practically wiped out. They should comprehend at least the following types:

1. Two educational, industrial, and trade-school institutions; one for younger men offenders who could clearly profit from commitment thereto and one for young and other women offenders of similar types. The higher grades of mental defectives should be handled in such institutions, provided they belong to the proper age group.

2. Two industrial institutions, preferably farm colonies; one for the young or more hopeful class of male inebriates and one for women of the same type, both equipped for medical treatment and work in the open air.

3. Two institutions for the insane and for borderline insanity cases; one for men and one for women.

4. Two special custodial institutions for the lower-grade feeble-minded and other abnormals not espe-

cially degenerate; equipped to provide simple industrial and agricultural work; one for men and one for women.

5. Two institutions for incorrigibles, degenerates, and abnormals, affording segregation, classification, and isolation into small groups for special care and treatment.

6. Two institutions for habitual "drunks," "old rounders," vagrants, the despairing, and the hopelessly crippled; one for men and one for women; they should be farm colonies with medical hospital facilities.

7. Two industrial institutions organized for production rather than for education and training, to which should be committed the more or less normal who are beyond the educational age; one for men and one for women.

8. Two industrial farm-colony institutions for the normal and unskilled, organized for production rather than education and training; one for men and one for women. To these should be committed the unskilled and those who have not been given the advantages of industrial and educational training, but who have reached an age where it is uselessly expensive to attempt for them high-grade industrial training. The unskilled who are kept for short periods because of opportunities given them for rehabilitation should be committed to institutions of this class, which also should care for ordinary members of the workhouse population who are not inebriates, not thoroughly degenerate, and not so hopelessly defective as to require permanent custodial care.

9. Two institutions, one for each sex, where offenders suffering from blood and contagious diseases

may be committed for isolation and treatment. Because of the time required for treatment, these would preferably be erected in the country, assuring plenty of light and air with isolation.

Institutional Structures. The importance of building can hardly be overestimated.

Detention prisons should have roomy outside cells or rooms, so constructed as to provide the maximum of light and air, and to prevent the mingling of the different types and grades of offenders.

Classification or "remand" institutions should be constructed partly along the lines of modern buildings for the insane, with ample provision for isolation of the psychopathic and degenerate cases, and partly along the lines of the modern cellular prison. The cellular section would obviously reduce the cost of supervision, while the hospital and isolation sections would afford ample opportunity for segregation of those who disturb the peace.

In the educational, industrial, and trade-school institutions some of the sleeping-quarters should be outside rooms, some should be ordinary dormitories, and some of the outside cubicle type. In the educational and trade-school work the shops should be organized as near as possible like shops in the outside world. Bedford Reformatory for Women, at Bedford Hills, New York, and the new New York City Reformatory for Male Misdemeanants now being erected at New Hampton Farms, Orange County, may be cited, with modifications, as examples of institutions which should be developed for the care and treatment of offenders of these classes.

Institutions for the younger and more hopeful inebriates should provide a library and educational

training to awaken enthusiasm. Such persons need little medical treatment, therefore hospitals should be reduced to the minimum. The sleeping-quarters should be of inexpensive construction, preferably one or two-story buildings, with a few separate rooms of dormitory construction; but most of the sleeping facilities should be of the cubicle type, which affords reasonable privacy and at the same time the best facilities for light, air, and reasonable supervision. A few buildings of the cottage type might be erected, but the great body of inmates could be more properly housed in buildings accommodating one or two hundred each. Such institutions should be on farms, with opportunity for the raising of live stock, for dairying, and for general farming; in brief, for work in the open under most wholesome conditions. The problem in the case of the inebriate is to be solved by removing him from his old environment and inspiring him with enthusiasm for the better things in life. The institution now being developed by the city of New York at Warwick, New York, and some of the better farm colonies erected in Belgium, are types which, with modifications, should be adopted for such offenders.

The insane and border-line insanity cases should be treated in institutions somewhat similar to the better type of insane asylums, where, in addition to medical treatment, there is truck gardening and other work in the open air for those who can be trusted to perform it.

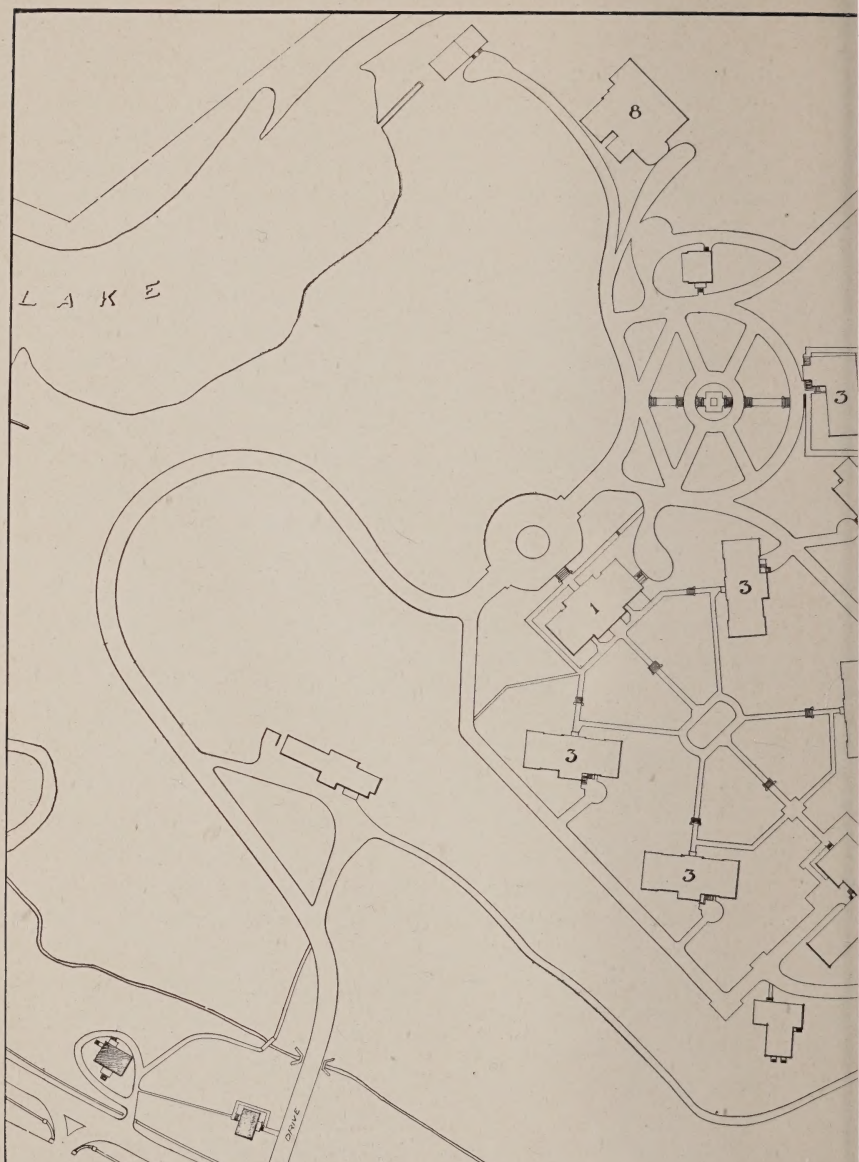
The low-grade feeble-minded and other abnormals who are not particularly degenerate should be housed in buildings equipped with separate rooms, or with cubicles, where close supervision at night is possible. These buildings should be in the country, upon land

suitable for live stock, dairying, and intensive agriculture, but not too far from the city to prevent the development as well of other productive work. There would be little or no need for book schools or for expensive equipment and construction. The custodial section of the new New York City Reformatory, already referred to—eliminating the trade-school building—might serve as a good example to follow.

The institutions for incorrigibles, degenerates, and other abnormals should be more like the prevailing prison type than any of the others—surrounded by a wall, and equipped for solitary confinement and isolation, where necessary, under humane conditions. Because of the necessity for close supervision, they should be constructed with a view to industrial production. While a rural site is most desirable, in order to remove the inmates as far as possible from centers of communication, much agricultural or other work in the fields would not be feasible. In place of work in the open there should be ample exercise out of doors, gymnastic training indoors, and military drill indoors during inclement weather. The Minnesota State Prison at Stillwater is a remarkable example of an institution for offenders of these classes.

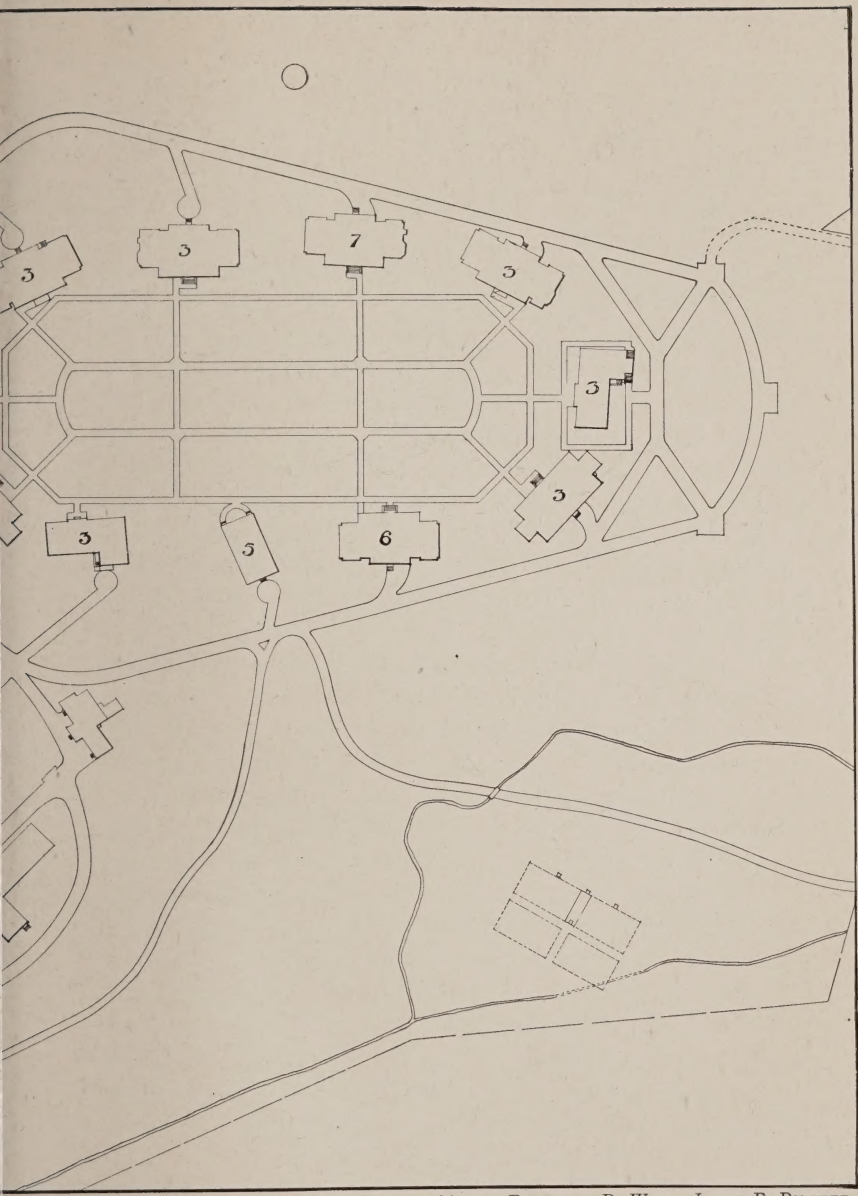
The old rounders, the vagrants, the despairing, and the hopelessly crippled should be housed in inexpensive one-story buildings of the dormitory or cubicle type, arranged to provide dispensary treatment, hospital wards, and meeting-places for religious work, lectures, and general entertainment. Cleveland (Ohio), Washington (District of Columbia), workhouses and New York City Municipal Farm on Rikers Island are examples.

Industrial institutions for more or less skilled work-



BLOCK PLAN OF STATE REFORMATORY

(An institution of the cottag



State architects, FRANKLIN B. WARE, LOUIS F. PILCHER

R WOMEN, BEDFORD HILLS, NEW YORK

pe, without surrounding walls)

ers beyond the educational age should be developed more or less as modern factories, foundries, and machine shops. With some modifications, the Minnesota State Prison at Stillwater is representative.

Industrial farm colonies should be developed upon spacious lands adjacent to railroad facilities; the industrial work to be carried on in shops equipped to keep in repair the farm and other machinery used in the colony. Great Meadow Prison, at Comstock, New York; the Ontario Prison, near Guelph, Canada; and the new Westchester County Penitentiary, New York, with certain modifications, may serve as examples.

Because of the high cost of buildings and maintenance for the care of those afflicted with blood and contagious diseases it would probably be necessary to break down the distinction between ages and classes of offenders. The planning of the institution, and the discipline and government must be depended upon to prevent such intermingling as would interfere with proper reformatory work. The Otisville Sanitarium, erected by the city of New York at Otisville, New York, for care of the incipient tubercular; various mountain camps for treatment of tuberculosis, and the better contagious disease hospitals are characterized by proper, co-ordinated care and treatment of these classes.

Typical Institutions. The detention institution is best typified by the Detention Home for Women planned for New York City.[1] The first four floors will be occupied by the courts which deal with women; the next four floors will be quarters for the detention of all women arrested and brought to the various courts in the Boroughs of Manhattan and the Bronx; the next four will be for those remanded for investi-

[1] See diagram facing pages 174, 175.

gation by the court after initial comparisons and for study in the laboratory, room for which is provided. The next three floors will provide quarters for women now committed to the city prisons for more than thirty days. The top floor will include a kitchen, small laundry, and hospital. The basement accommodates the heating and lighting plant. In this building are no inside cells. Outside rooms are substituted. Each room will be equipped with a washbasin, sanitary bed, and table, and will have a window opening on the outside air. The structure is sixteen stories, on a ground plan of "U" shape, with the lower end of the "U" facing the street. The food will be taken by dumbwaiter to the various floors and served at tables placed in open loggias.

The industrial school group institution is best typified, perhaps, by the State Reformatory for Women at Bedford Hills, New York; by George Junior Republic at Freeville, New York; by the Orphan Asylum of the Hebrew Sheltering Guardian Society at Pleasantville, New York, and by the new New York City Reformatory at New Hampton Farms, Orange County. In different parts of the country, particularly in Indiana, Illinois, and Massachusetts, are many fine examples of institutions of this type; but, structurally, those named are probably superior.

State Reformatory for Women, Bedford Hills, New York. This institution is of the cottage type without walls. It has a finely equipped gymnasium, a separate and thoroughly equipped hospital, a separate and thoroughly equipped school building, a central power and lighting station, adequate dairy and other barns, a model sewage-disposal plant, an adequate water-supply system, and a well-organized

farm, with four separate cottages for accommodation of the women assigned to do the farm work. Overlooking a beautiful valley, the institution is suggestive of a modern college rather than a reformatory. Each cottage accommodates thirty-two inmates, and assignments are made according to character and conduct. One cottage is known as the Honor Group, in which girls may win the right to live. Each cottage has outside rooms instead of cells, a spacious dining-room, kitchen, and laundry. Each cottage is in charge of a matron, who acts as friendly adviser. There is a Receiving and Classification Building, to which all girls committed are brought and cared for during the first two weeks of their stay, while their cases are being investigated. An up-to-date Psychopathic Hospital Building for treatment of the hysterical and the mentally unbalanced is equipped with every modern device. Still another building is the Laboratory of the Bureau of Social Hygiene, to which girls are brought to undergo the mental, fatigue, and other tests giving by leading experts.

Close co-ordination is possible between the work of the school and that of the institution.

The segregation of the girls into small groups of thirty or thirty-two in cottages makes it possible for a girl to determine what treatment shall be accorded her. She can rise by gradual stages until she reaches the Honor Cottage, or she can descend until she reaches the disciplinary department. The same appeal is made to her that is made to the girl in college, and she alone is to blame if she decides to deteriorate instead of improving. In short, the management has aimed to create conditions similar to those in a well-regulated girls' boarding and industrial school.

The diagram facing pages 180, 181 shows the layout of the main portion of this institution. The building marked 1 is the Administration Building; the building marked 2 is the old cellular Receiving Building, now superseded by the new and modern Receiving Building of the Bureau of Social Hygiene group; the buildings marked 3 are the various cottages; the building marked 4 is the Industrial and School Building; the building marked 5 is the old Disciplinary Building, which has been superseded by the Psychopathic Hospital in the Bureau of Social Hygiene group; the building marked 6 is the regular hospital; the building marked 7 is the Honor Cottage, wherein there is self-government pertaining to the conduct and government of that building; the building marked 8 is the Heating and Power Plant. There are farm cottages in other sections of this institution for the segregation of those whose time is given up to farm work. The Bureau of Social Hygiene owns a farm adjacent to the reformatory, and has erected a modern Receiving and Classification Building, where all persons received at the reformatory remain for a period of not less than two weeks or more than a month; a modern laboratory, provided with scientific equipment for making scientific tests, and a most modern and up-to-date psychopathic hospital for the treatment, care, and study of the abnormal cases.

George Junior Republic, Freeville, New York, is an institution of the cottage type for young men and young women, developed as an industrial school. The cottages hold from twenty to thirty. There is a large farm with fairly adequate farm buildings. Inasmuch as this institution is organized as a republic, in imitation of the United States Government, there

is a town jail which takes the place of the customary disciplinary building. The officers of the republic are inmates, who are quartered in the cottages and meet in the town hall to conduct the government and business.

The school work of this institution is planned along the lines of the ordinary preparatory school, and some of the young fellows have stepped from here into leading universities. The educational work begins with fundamentals. It has been stated that when Prince Henry of Prussia, the brother of Emperor William, returned from his visit to America some years ago, a prominent magazine writer asked him what had impressed him most in America, and he answered, "The George Junior Republic."

The Orphan Asylum of the Hebrew Sheltering Guardian Society, Pleasantville, New York, is the last word in institutions of the kind, and may be cited as a model of what the industrial school type of institution should be. The buildings are of hollow tile and are arranged about a plaza. The children are quartered in cottages. In each cottage there is a playroom, kitchen, and dining-room on the first floor. On the second floor are two dormitories, and between these ample bathing and sanitary equipment. In the middle of the cottage is a third story, in which the housefather and housemother are quartered.

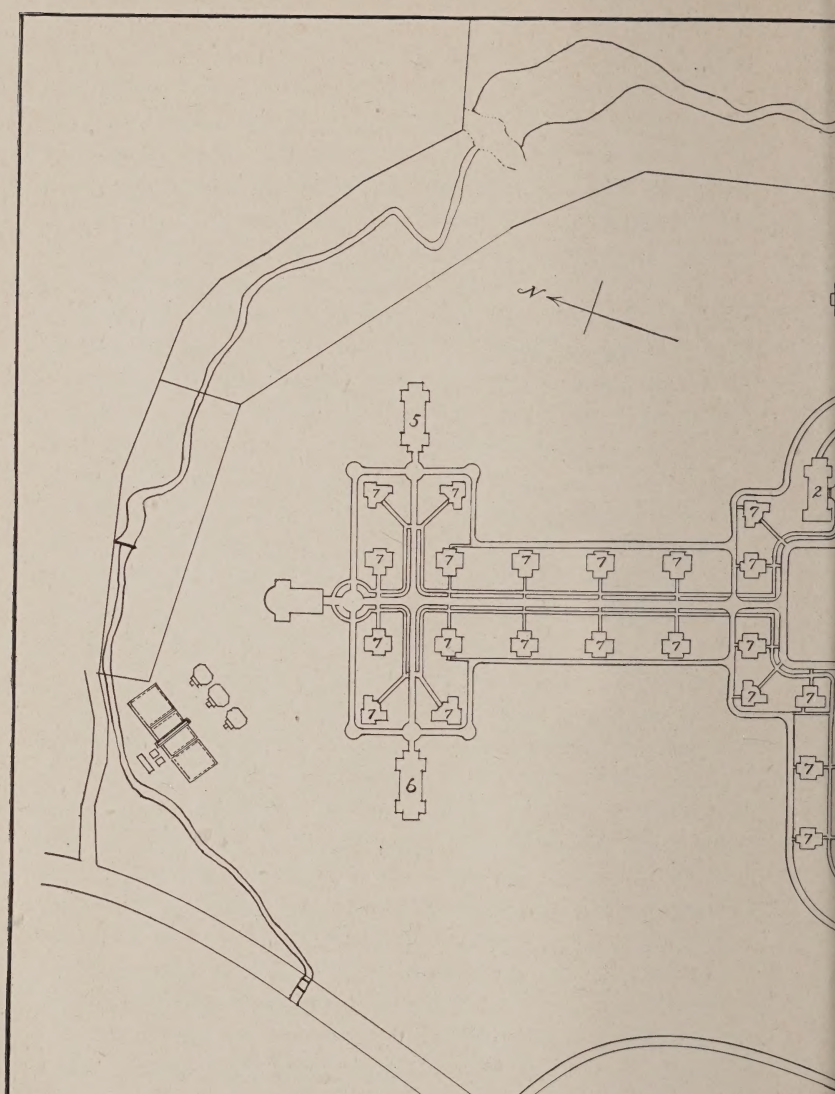
Each cottage accommodates twenty-five to thirty children. In the main building of the institution are quarters for the administrative staff, a spacious gymnasium and public meeting-place, chapel, and schoolrooms. A separate trade-school building is equipped with up-to-date machinery. The storeroom, laundry, and farm buildings are models.

The building marked 1 on the diagram opposite

page 186 is the Administration Building, including assembly hall and chapel; the building marked 2 is the Technical Building; the building marked 3 is the School Building; the building marked 4 is the Laundry; the building marked 5 is the hospital for girls; the building marked 6 is the hospital for boys; and 7 indicates the various cottages in which the various groups are quartered.

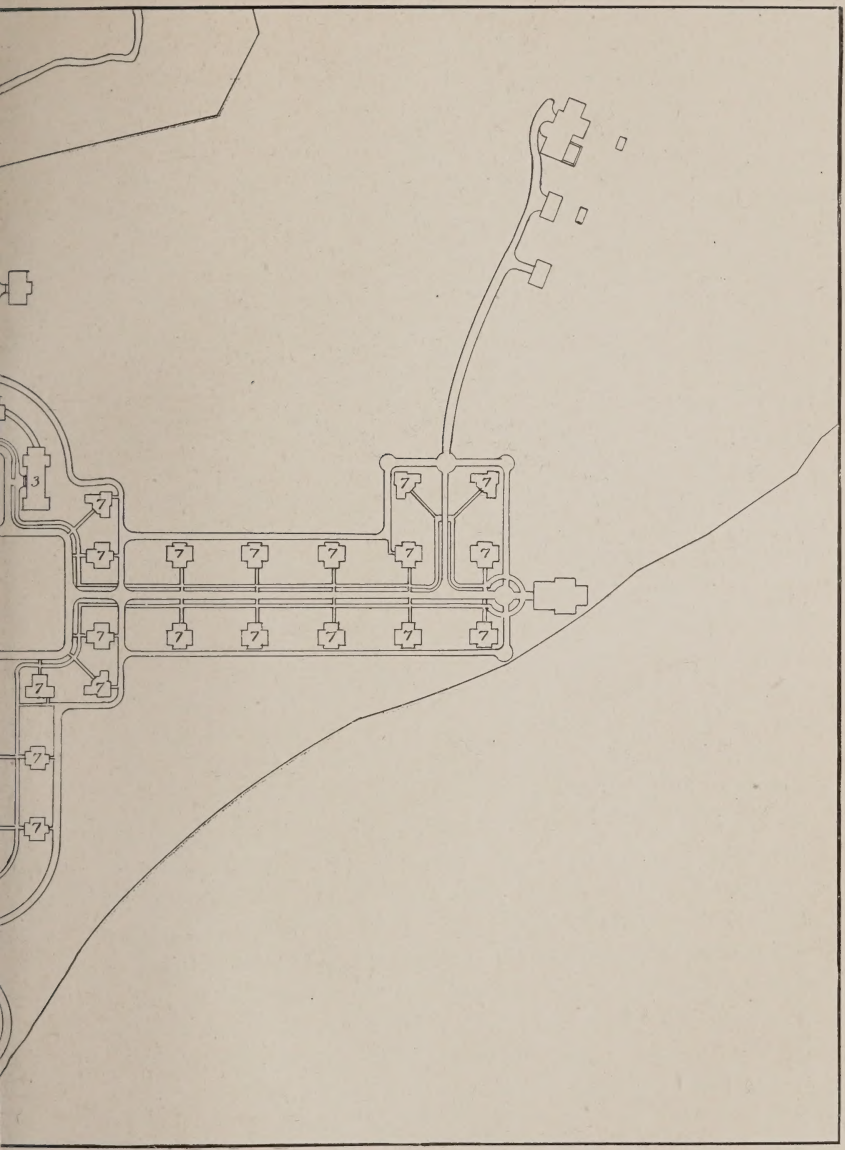
The New York City Reformatory, New Hampton Farms, Orange County, is a combination of the custodial and cottage types. It is estimated that more than one-third of the possible 800 population will be quartered in the custodial section, and the remainder in four groups of cottages, with four cottages in a group, and each group erected upon a separate section of the 600-acre farm. The four cottages will accommodate 119 inmates, one cottage being large enough to provide kitchen and dining-hall for all inmates of the four cottages.

In the custodial section will be a main Receiving and Classification Building, for the segregation of those suffering from diseases upon admission, and for classification of all. There will be a separate school building so planned as to prevent those classified in the second and third groups from coming into contact with one another. The incorrigible and others regarded as unfit to associate with the larger group living in the custodial section will be segregated in the third-grade building. The remainder of the custodial group will be quartered in second-grade buildings—two-story structures with outside rooms in place of cells. Each building will accommodate 100. Baths, with sanitaries and other equipment, will be in the basement. There will be a separate dining-hall so



BLOCK-PLAN LAYOUT, HEBREW SHELTERING GU

(A model institution of the industr



Associate architects, H. A. JACOBS and MAX G. HEIDELBERG

ORPHAN ASYLUM, PLEASANTVILLE, NEW YORK

ol type, without surrounding walls)

arranged as to prevent the mingling of the second and third grades during the dinner-hour. A separate power-station and laundry will be provided, as well as a small isolated disciplinary building for the incarceration of those who are unable to live in the third-grade building. In the Disciplinary Building there will be ample light, air, and running water. There will be a separate chapel building. The custodial section is being erected on a high plateau overlooking the surrounding hills of the farm, which extends some two and a half miles along the Wallkill River.

The New York City Inebriety Farm, Warwick, New York, now under construction, is of the type which should be planned for the young and more hopeful inebriates—combination custodial and cottage. The main building houses the office staff, and contains dormitories fitted up with cubicles accommodating two single beds, separated from the other beds by partitions extending some two and a half to four feet above the beds, thus affording reasonable privacy without interfering with the free flow of air, and allowing the sunlight to pour into every cubicle during the day. The inmates will use these cubicles only during their sleeping-hours. The remainder of the time will be spent in the school-room, in the trade shops, or at work upon the 775-acre farm. A few cottages will be erected for the segregation of those who should be accommodated in this way. This plan of institution is based upon two or three years' experiments with a group of one hundred men. The medical service is reduced to a minimum, and the main object is to provide wholesome surroundings where a man's moral sense may be improved by the discipline, order, and general tone of the institution.

Great Meadow Prison, Comstock, New York; the Guelph Prison Farm at Guelph, Ontario; and the Westchester County Penitentiary Now Being Erected Near White Plains, New York, are examples of institutions for those beyond the ordinary reformatory age, and erected primarily for industrial or agricultural production. The cell block at Great Meadow Prison is the last word in such cell structure. The outside shell inclosing the cells is more than half glass. The front of each cell consists of long bars, permitting the sunlight to flood the interior during the larger part of the day. Each cell is equipped with every modern convenience. The windows can be adjusted to perfect ventilation. While this large cell block does not permit classification, it requires fewer men to supervise the prison at night, thus reducing the cost of operation.

There are no walls about the prison. The cell block is used only as sleeping-quarters. The men are busy about the farm and the other buildings during the day.

The Guelph Prison is a combination dormitory and outside cell prison. Built by prison labor, it is admirably adapted to meet the needs of an institution where there is no necessity for careful classification.

The new Westchester County Penitentiary now being erected near White Plains, New York, is a model in outside cell classification prison construction. Each building accommodates about seventy-five men. The main building is used as an office for the staff and for study and classification of inmates before they are assigned to the cell buildings. The latter offer every facility for classification according to character and conduct, and, where necessary, according to the assignment to work. Cottages may be erected later for those who need not be quartered behind a wall.

The buildings themselves are constructed around a hollow square. At the back of the inclosure are the shops, to be erected by the prisoners themselves. There will be separate hospital buildings. Men working during the day on the farm will return to the institution for dinner in a separate dining-hall and for school work in the school building, and finally will be quartered in the separate cell buildings.[1]

The Minnesota State Prison at Stillwater is the type which should be developed for incorrigibles, degenerates, and other abnormals. This splendid prison building is erected on the old-fashioned "H" plan, with inside cells, three sides of which are constructed of poured concrete, and the front of cell bars. Each cell is equipped with every modern device—although the windows in the shell of the building are not so numerous or so well placed as in the cell block at Great Meadow Prison at Comstock, New York. A high wall surrounds the whole institution. The other side of the "H" is the shop building, containing a great manufacturing plant, which turns out all kinds of agricultural implements. The building which joins the two sides of the "H" contains rooms for the office staff and for the receiving of prisoners, the kitchen, and a spacious mess-hall, which is the last word in concrete dining-hall construction.

The hospital is in the same open space and is a fine example of the institutional hospital. The builders of this prison declare that it is one of the most sanitary in the world, and that the inside-cell construction makes it possible to flood the cells with light, which would not be possible if the cells opened on the windows, as they do in prisons with outside cells. Further-

[1] See diagram facing pages 192, 193.

more, they urge that these windows can be opened to ventilate the prison; whereas, if the prisoner has control of the window, as he does in the outside-cell building, he is likely to close it and deprive himself of fresh air. The cost of supervision is reduced to a minimum, as the men are quartered in a great long cell block.

While this kind of construction will undoubtedly be regarded as unsuitable for institutions handling the more hopeful types of inmates, it is probably the best which can be developed for the degenerate and otherwise incorrigible who must be closely watched, but who cannot or need not be accommodated in institutions for the insane or the low-grade mentally deficient. It will be necessary, however, to provide a separate disciplinary building for those unwilling to be quiet during the night.

The State prison at Stillwater is the best modern example of the cell-block type of institution, but it does not provide adequate facilities for segregation and classification of the prisoners. In every other respect it leaves nothing to be desired so far as the building structures are concerned. The windows are long, the corridors are wide, the fronts of the cells are constructed wholly of steel bars, and there are running water, toilet facilities, and a small locker in each cell. The ventilation throughout the prison is as perfect as can be made by mechanical means. The hospital and dining-room are models of their kind.[1]

The best type of disciplinary building yet developed is that under construction on Rikers Island by the city of New York. In some respects it resembles the plan of the Eastern Penitentiary of Pennsylvania,

[1] See diagram facing page 198, 199.

which was erected as the institution of the separate type. It is only one story in height. Each cell is equipped with every modern sanitary device, and it has a large yard into which the prisoner may be released during a large part of the working-day, during which he will be required to do some work, such as breaking stone or the like. The top of the cell will be almost entirely of glass, so protected as to prevent the inmate breaking it, and permitting the guard to draw the shades during extreme hot weather and shut out the rays of the sun. A wide corridor will extend around the outside of these cells and yards. The yards and cells will be surrounded by a one-story structure, with large windows admitting the maximum of sunlight and air. As this building will be but one story and for disciplinary cases only, it will not be open to the objection as to dark cells and dungeons which hitherto have characterized disciplinary prison structures.

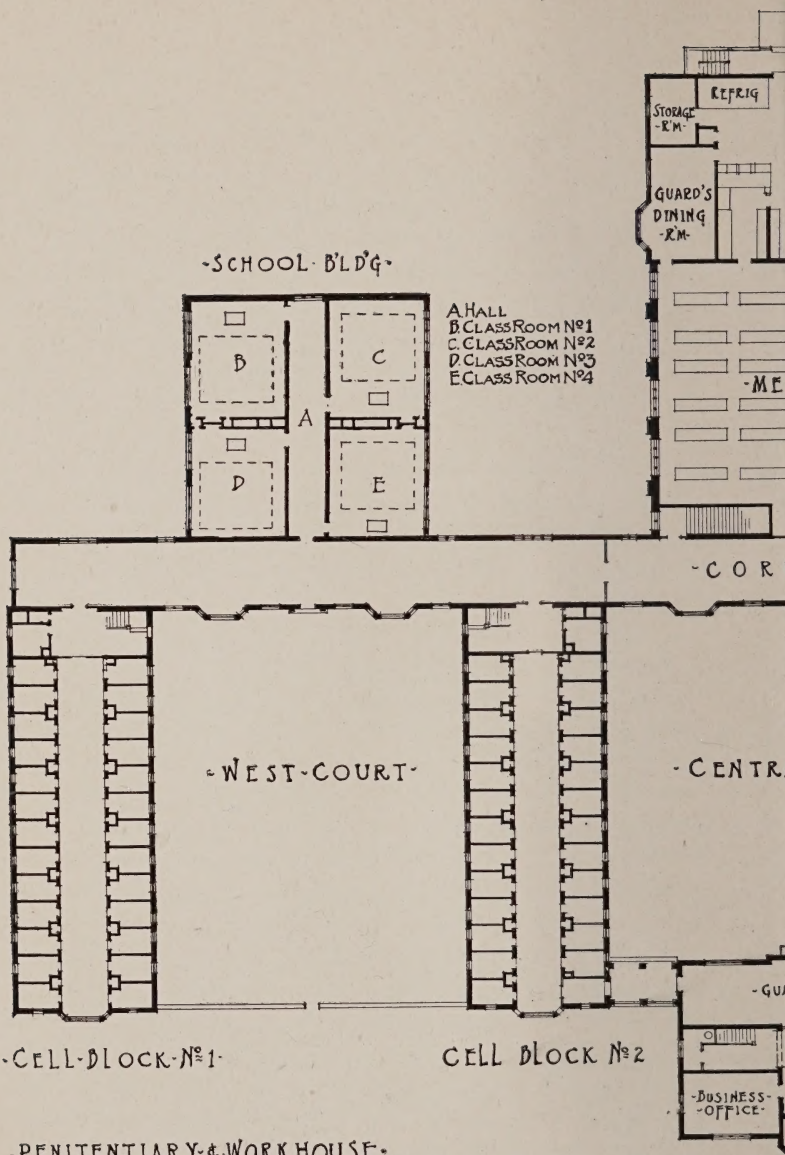
The Municipal Farm on Rikers Island, New York City, is probably the best type of institution yet developed for the old rounders and others who need care and treatment. Some of these buildings are one story and basement, 110 feet long, accommodating 100 men each. Others are two stories in height, accommodating 75 men on each floor. Some of these dormitories will be converted into cubicles by the erection of false partitions extending from a point 6 inches from the floor to 4 feet above the top of the ordinary bed, above which wire grille will extend, and over which a wire grille will be stretched; the whole cubicle thus built will afford privacy while permitting free circulation of air and admission of light. There also will be a corridor between the out-

side wall in which the windows are placed and the ends of the cubicles, and in some cases the ends of the cubicles facing this wall will be constructed entirely of iron grille-work to permit the closest supervision and the maximum ingress of light.

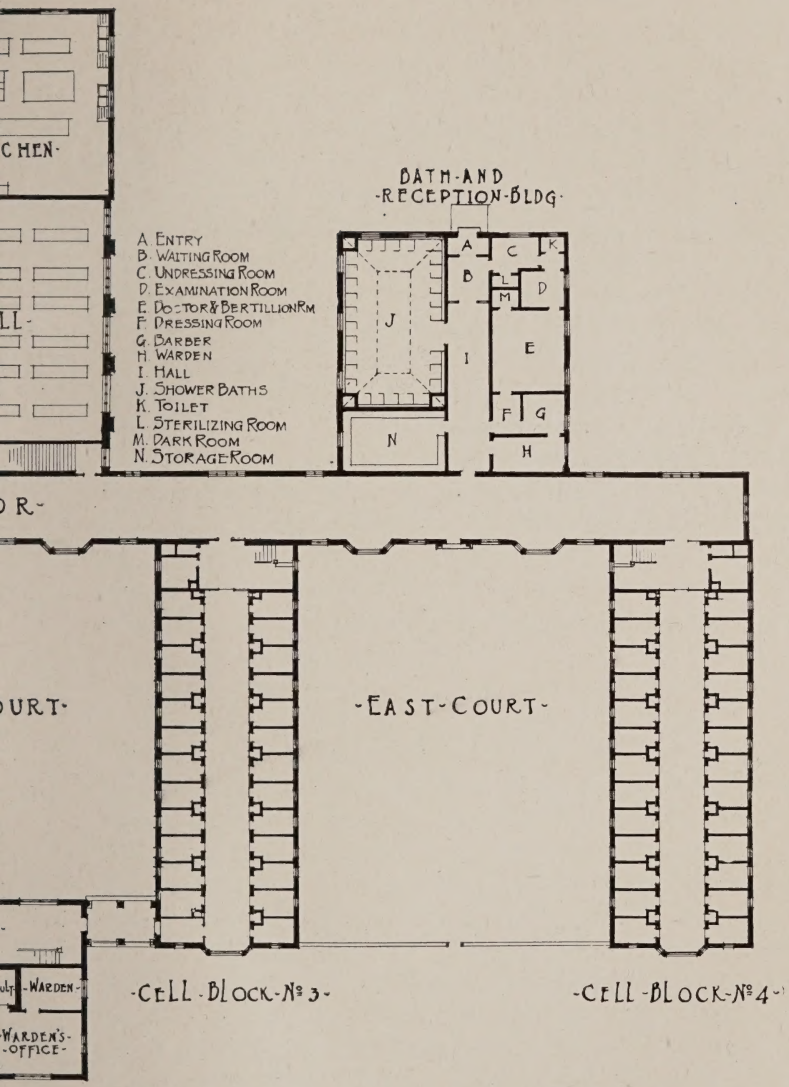
In such an institution those who cannot be trusted in a dormitory may be placed in a cubicle; those who cannot be trusted in the cubicle may be placed in the dormitory. There is always a large number of both types in every institution. A separate hospital, a separate mess-hall, and a separate dining-hall are being constructed.

Some seventy-five acres of Rikers Island have been cleared of rubbish and planted as a farm during the last year. Here the weak are given opportunity to work in the open air where no particular skill is required.

The diagrams facing pages 202 and 203 show the block plan and the isometric view of buildings of simple construction equipped with cubicles, shower-baths, lavatories, and the like. One diagram shows the floor-plan layout providing a narrow passageway between parts of the cubicles facing the outer walls and windows of the building, and a wider corridor running down the center between the two rows of cubicles. The second diagram shows a perspective of the cubicles which are substituted for cells. The fronts face the outside windows and are constructed entirely of heavy woven wire, 5′x7′x8′. The sides are 7′x6″ of woven wire, 7′x5½′ of solid sheet steel, and 2′x7′ of woven wire; in the end facing the corridor the door is solid sheet steel, 2′x6′. In the space between the door and the end of the cubicle there is woven wire, 3′x6″; in the space above that there is solid sheet steel, 3′x5½′.



BLOCK-PLAN LAYOUT OF PENITENTIARY AND WORKHOUSE, WESTCHE



ALFRED HOPKINS, ARCH.
101 PARK AVE. N.Y. CITY

ION-B'LD'G

OUNTY, EAST VIEW, NEAR WHITE PLAINS, NEW YORK (*see Frontispiece*)

The space above the door is constructed of woven wire, 1′x2′, and the remaining space, 3′x2′, is constructed wholly of woven wire. The tops of all of the cubicles are covered with woven wire and are 8′ above the floor. The woven wire on the floor makes easier the circulation of air. The ends facing the outer windows, constructed of woven wire entirely, afford the maximum of light and allow the guard full opportunity to observe each inmate at any time during the night without opening the cell door or otherwise interfering with him. The solid sheet steel on the sides and ends afford the prisoner reasonable privacy, and the woven wire in the space above that allows the freest circulation of air and the freest access of sunlight which may stream through the windows. Buildings constructed of this type of material in this way cost about one-fourth of what similar buildings equipped with outside or inside cells would cost, and afford sufficient security for about one-third of the prisoners who are ordinarily committed to the ordinary cosmopolitan institution.

The Otisville Sanitarium for incipient stages of tuberculosis is erected on the side of a mountain at Otisville, some seventy-five miles from New York City. It is an institution of the cottage type, with large, sanitary dining-hall, laundry, and hospital. Some of the cottages are small one-story shacks, others are two stories and of more permanent construction. The shacks are of wood, the sides entirely open to the outside air. This open space is filled with heavy screens, and on the inside canvas curtains may be unrolled to shut out entirely rain and snow. In the middle of the shack is a closed-in room containing wash-basin, towels, etc. The more permanent build-

ings are of brick and hollow tile or field stone, and the windows may be thrown open so as to flood the room with sunlight and fresh air.[1]

Structures to Be Avoided. The old cell-block prison type of construction should be avoided entirely, as it was developed at a time when men's ideas as to what constituted proper institutional treatment were all wrong. The old-style prison, which has endured too long, was built by men who provided cells which were really adaptations of the old underground caverns and underground mine prisons which preceded the cell-block prison. These men had no conception of modern psychology and of the fundamental forces which operate to produce normal relations among men. Some felt that society should appoint agents who should be the vice-regents of God, whose work it should be to impose punishment upon the alien creatures called criminals. This punishment should consist of making life as miserable as possible. The idea back of this conception proceeded partly from the old conception of demonology, and partly from the eighteenth-century conception of equality, where the offender was regarded as a properly equipped man who had prostituted his instincts, his training, and his abilities to criminal ends. Such a man, according to this theory, should be punished in order to bring him to his senses and to deter others from following his evil example.

These theories produced the old, inner-cell prison, without proper facilities for light, sanitation, or cleanliness. The old cell block at Sing Sing Prison, New York, at Auburn Prison, New York, at San Quentin, California, at the New York, Albany, and Onondaga County penitentiaries, and at most of the older prisons

[1] See diagram facing page 206.

in the United States and in England[1] are examples of structures built by men imbued with these mistaken ideas.

A particularly objectionable type of construction was developed in Pennsylvania by those who believed that the offender could best be reformed by isolated confinement. The old Eastern Pennsylvania Penitentiary was constructed to prevent any communication whatsoever between inmates of the institution, the theory being that a man should be kept in solitude, as evil communications corrupted a good man. In isolated confinement it was believed that the offender, given over to introspection, would ponder his past, profit by his meditation, and equip himself to become a law-abiding citizen upon his discharge from prison. It is needless to say that such a theory is utterly contrary to every modern principle of psychology, education, and training. It ignores utterly the factors of suggestion, imitation, and intercommunication, upon which the whole fabric of social development is based. Isolation produced the carnivorous animal, which has disappeared from the earth because it could not stand the competition and onslaught of the social-minded animals that banded to destroy it. Such institutional construction forced men into a manner of living calculated in every way to make them other than social beings.

The evil example of these types of institution still lingers in the disciplinary sections of most of the correctional institutions of the country, although disciplinary institutions have recently been erected in which are facilities for isolation which afford light, air, and reasonable sanitation. The old dungeons

[1] See discussion of government and discipline, chaps. viii and ix.

and cave-like "coolers" are relics of barbarism which have survived because those who built correctional institutions and the institution officials never had the advantages of training and discipline acquired in the modern psychological laboratories and the modern public schools.

XI

PRODUCTIVE PRISON WORK

EVERY able-bodied inmate of a correctional institution should work at least eight hours each day at some productive labor. Those unable to work a whole day—on the testimony of the physician—should be given work for a part of the day. Idleness is the curse of the offender and of most institutions. There can be no genuine reform which does not include regular, methodical work claiming a large part of the prisoner's day and attention. Public opinion may be depended upon to support a new prison program which provides clean and wholesome surroundings, opportunities for education, for recreation, and for development. Such provision, however, will be regarded as mere coddling of the prisoner unless there be an increase in productive work. In order to hold the attention of the inmate the work must be not only productive, but developmental in character—work which will naturally help the inmate to reach a higher standard of industrial efficiency. Such labor should be regarded by the prisoner as a privilege—and will be so regarded if the institution is properly organized.

Productive work within prison walls has been developed for the most part since 1830. Before that

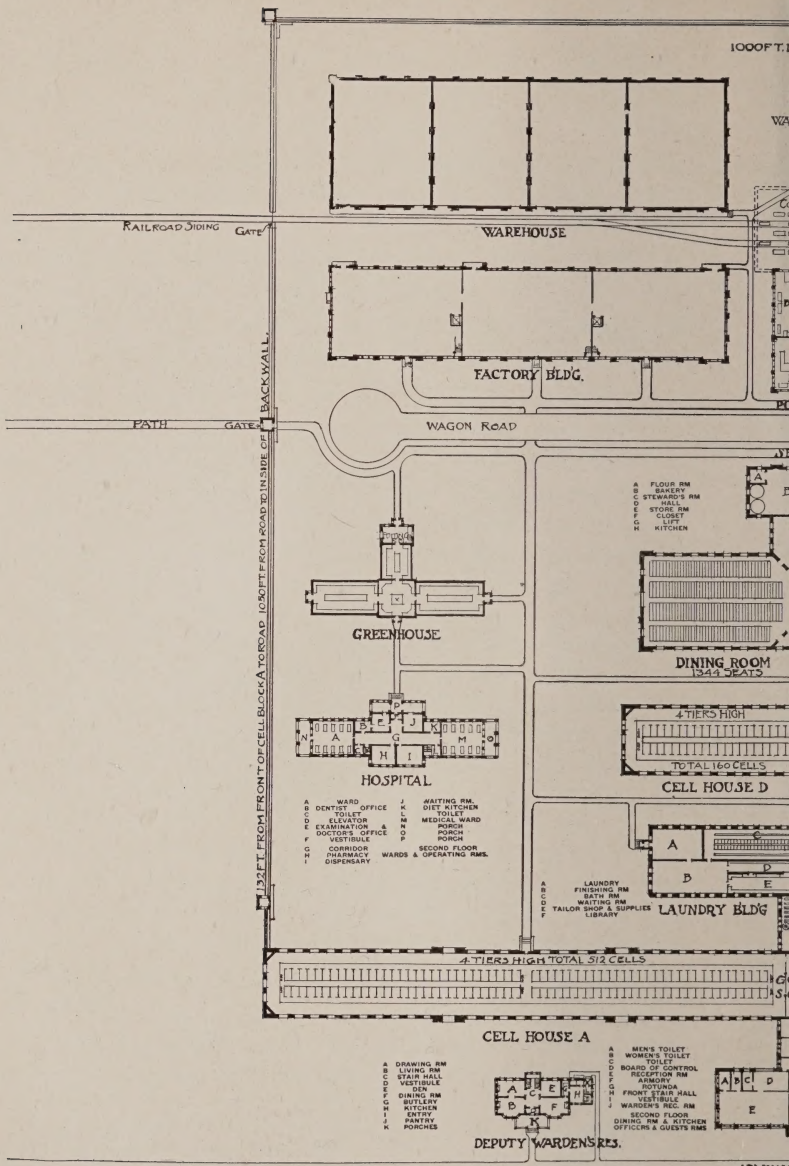
time England sent her convicts to the American Colonies, to Australia, and Tasmania, where they were employed upon great productive work. Finally there was a demand for labor in England, especially upon the water-front, so that certain prisoners were held back and not deported. In America one of the opponents of capital punishment, Rev. Robert J. Turnbull, visited Philadelphia Prison in 1796. He commented upon the orderly condition of the prison as contrasted with public labor conditions, then abolished. He said:

A grand and important defect, though not generally observed, appeared too plain to some of the promoters of the plan, to inspire them with sanguine expectations of its success. It was the inefficacy of the punishments of labor, mutilation, and whipping, inasmuch as they destroyed an important end of punishment, that of the criminal's reformation. . . . The convicts who were sentenced to the wheelbarrow and dispersed along the streets and roads, exhibited, from the difficulty of superintending them, the most shameful scenes of drunkenness, indelicacy, and other excesses in vice. The inconvenience and mischievous effects of the punishment of public labor at length became so intolerable that it was regarded, and with much justice, as a common nuisance.

The exertions of the society [society interested in prison reform] after considerable opposition secured from the Legislature an amendment to the penal code, by act of the 5th of April, 1790, which abolished the former punishments and established in lieu of them private labor, fine, and imprisonment.[1]

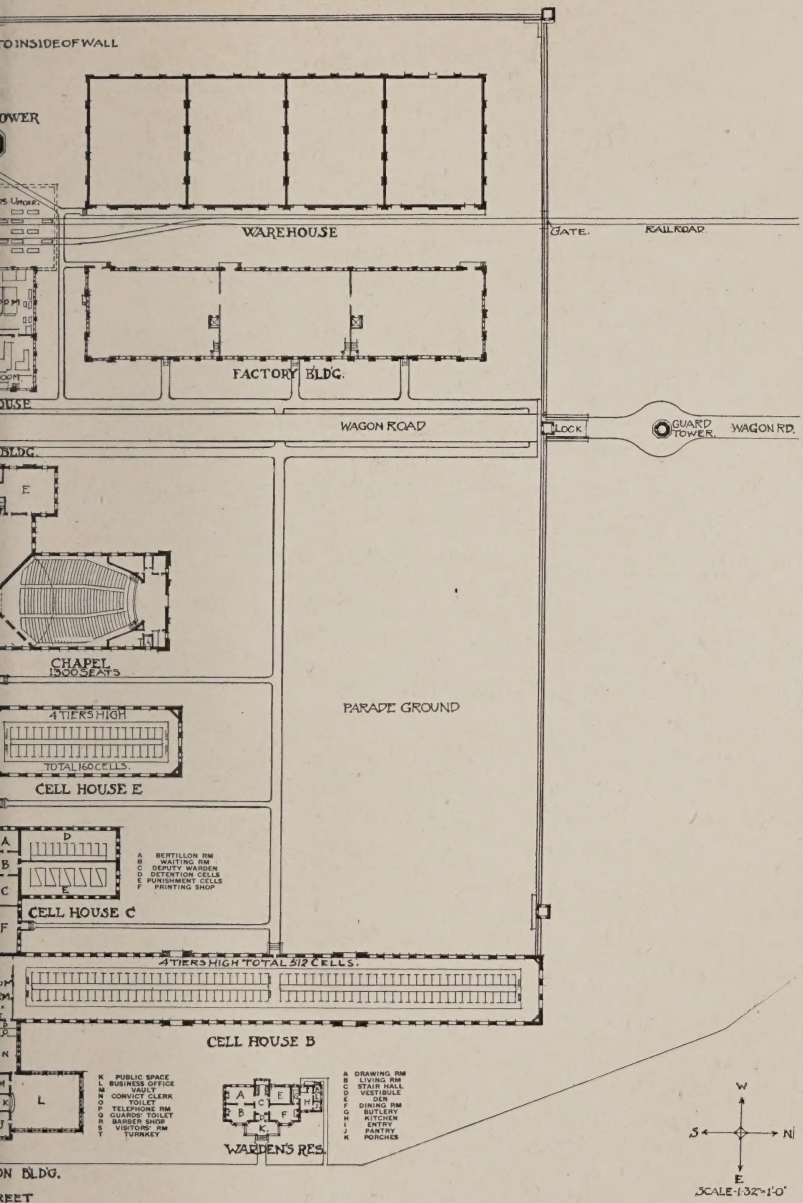
Apparently the action of Pennsylvania was followed by action in other States, which led to the

[1] Turnbull, Robert J., *A Visit to the Philadelphia Prison*, pamphlet published in Philadelphia, 1796.



(Courtesy of Western Architect)

GROUND PLAN AND LAYOUT, STATE PENIT



CLARENCE H. JOHNSON, Architect

ARY BUILDINGS, STILLWATER, MINNESOTA

abolition of public labor and to the development of private labor within prison walls.

Zebulon R. Brockway, superintendent of Elmira Reformatory from 1876 to 1900, has pointed out how productive work transformed the houses of correction and county prisons in which such work was introduced upon an extensive scale. He says:

The prisoners confined at that stage of the Albany Penitentiary were all of them midemeanants. They were adults, men and women of low type, habitual drunkards, common prostitutes, local and migrant vagabonds, professional gamblers, petty thieves, bruisers, and other similar characters from the social scum of the cities of Albany, Troy, and from the populous towns of surrounding counties. The mass here differed from that at Wethersfield (Connecticut) in being devoid of a certain subterranean, menacing quality, attributable largely to long sentences and to the larger ratio of desperate characters there confined, and there was less necessity for intensive guarding. . . . Familiarity with the prisoners at Albany, after my contact with those at Wethersfield, opened a vista of crime cause, pointed to the classes and conditions in society from which spring the serious offenders, and showed the great need in this larger field of good preventive prison management.

The employment of the prisoners at the Albany Prison, aside from the usual domestic and prison duties, was in making rattan chair-seats, braiding willow covers on bottles and carboys, and shoemaking. The system was partly by contract per day for each prisoner's time, and partly by the piece for work actually and satisfactorily performed. . . .

The exact data that showed in dollars the financial result of this then unprecedented prison management proved that in directing the employment of such worthless prisoners, serving short sentences, the institution was made self-sustaining and even profitable. The city and county

were not only saved from any expense in caring for local offenders in the penitentiary, but they received annually into the treasury considerable sums from the surplus earnings. The surrounding counties, by boarding their prisoners at the Albany Penitentiary, incurred no additional cost above that of the home jail custody, and at the same time avoided the evil of the discharge of itinerant and other prisoners into their own immediate community. Also, very decided improvement in the conditions of the prisoners was effected by their removal from the county jails to the penitentiary. Instead of idleness, corrupting communications, and the degrading influence of jail confinement, prisoners in the penitentiary were under good hygienic conditions. Corrupting communications among them were almost entirely prevented, and their minds and bodily energies were healthfully engaged in useful industry.

Everybody readily appreciated the economic benefit, and thoughtful, influential individuals were gratified at the bettered condition of the prisoners. . . . Similar penitentiary establishments were created at Allegheny, Pennsylvania; Cleveland and Cincinnati, Ohio; Chicago, Illinois; Milwaukee, Wisconsin; six in New York State; and notably the House of Correction at Detroit, Michigan. . . . In Connecticut and Massachusetts, in the larger jails, systematic labor and better general conditions were introduced and established.[1]

Mr. Brockway showed also how the municipal and county almshouse at Albany, the penitentiary at Rochester, and the House of Correction at Detroit could be made self-sustaining through productive work, despite the fact that the inmate population was composed of men and women of little character and training.[2]

[1] Brockway, Zebulon R., Op. Cit., pp. 46-49.
[2] Brockway, Zebulon R., Op. Cit., pp. 51–100.

Mr. Brockway explains that legislation restricting sales of prison products was responsible, in his opinion, for the decline of the correctional institutions of the country in the closing years of the nineteenth century.

In reality, although he does not say so in so many words, this able prison executive places the blame for this decline upon the institutional executives, county supervisors, and boards of control more than upon the agitators of organized labor who urged such legislation. He states that the passage in 1888, of the Yates law, which practically put an end to productive work in Elmira as well as other institutions, was really a great blessing to Elmira, because it forced him, as superintendent, to organize military drill and at the same time permitted him to develop schools for industrial training, in which he was not compelled to turn out products for sale.

In 1884 the Legislature of the State of New York abolished the contract system, which had proved to be a curse. Of the passage of the Yates law, Mr. Brockway says:

> This legislative action was then believed to be disruptive of the whole penitentiary system of prison treatment; and, for our reformatory, a disabling stroke at the very plexus of our plan. Of the gross maintenance cost to date, $1,024,431.06, the prisoners had contributed by their earnings close to 60 per cent., or $606,299.35. Thereafter the entire cost must be provided in appropriations annually by the legislature, which was thought to be unfavorable to the ready supply of sufficient means. It was also feared that the disintegrating influence of idleness or aimless occupation would be disastrous. It was not then clearly foreseen how completely and more usefully the prisoners could be

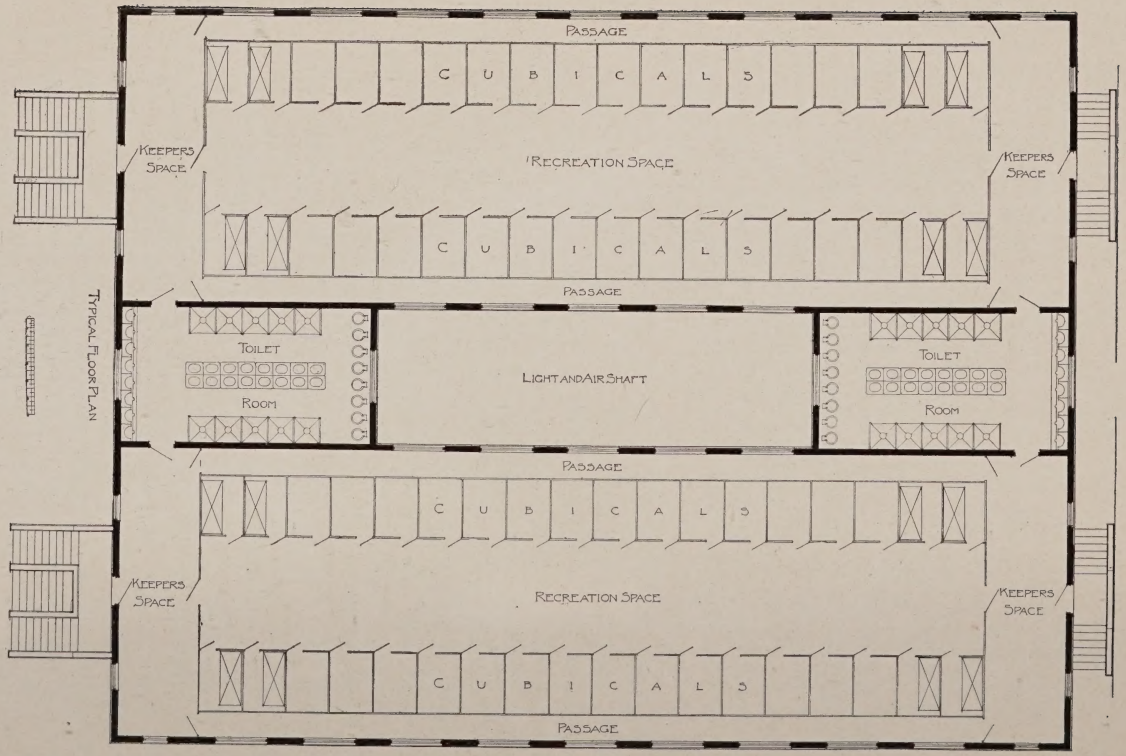
employed without regard to income to the State from their labor. . . .

Fortunately, the management was never again hampered by any demand or care to earn income from the State by the labor of the prisoners. Thus the legislative anti-prison-labor policy, which was at first deemed a calamity, was soon turned to advantage, and became for the reformatory system as "the stone at the head of the corner."

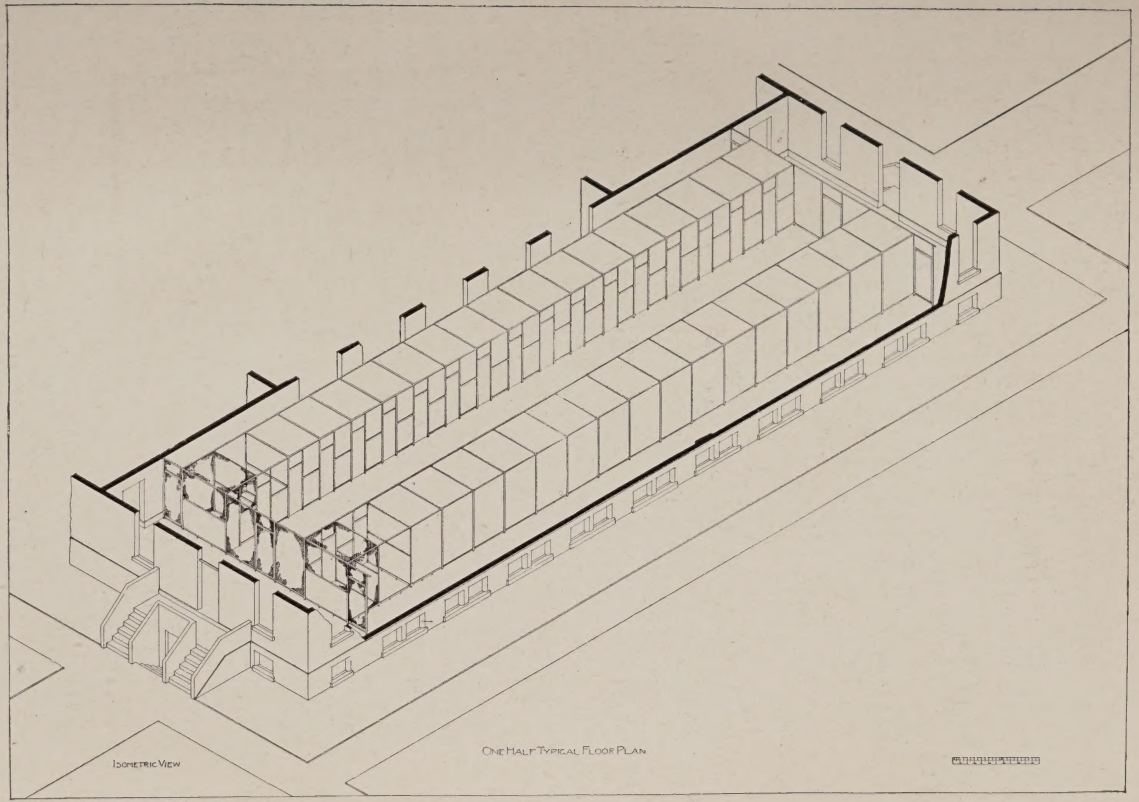
Idleness in the State prisons gave rise to grievous complaint because of an increase of insanity, imbecility, and other disorders among the prisoners, occasioned by it. But at our reformatory such evils were obviated by quick resumption of differently directed activities, and, without income from prisoners' labor, means for current support were liberally supplied.[1]

It is curious to note how this brilliant superintendent surrendered to the old pedagogical ideas which held that industrial and trade education were incompatible with production. The newer theories have been demonstrated more conclusively in our better reformatories than they have been in any other place, and have shown how the system of education may be built around the every-day activities of the inmates. Bedford Reformatory for Women has developed a school which is a concrete example of what may be developed in the ordinary school in the outside world. Older educational leaders still hold, with Superintendent Brockway, that the necessity of producing useful things retards the educational processes; whereas education based upon modern psychology has clearly demonstrated that ordinary manufacturing and other processes must be carried on under as natural conditions as possible. In other words, dummy shops such as Superintendent Brock-

[1] Brockway, Zebulon R., Op. Cit., pp. 289, 290.



FLOOR PLAN OF DORMITORY, MUNICIPAL FARM, RIKERS ISLAND, NEW YORK CITY



S. S. McGrath, Architect

ISOMETRIC VIEW OF CUBICLES IN DORMITORY, MUNICIPAL FARM, RIKERS ISLAND, NEW YORK CITY

way developed at Elmira must give way to practical shops, if institutions and schools are to develop the right types of education and turn out men and women capable of taking their places in the workaday world.

In 1889 the Legislature of New York passed the State supply law, under which goods manufactured in prisons and reformatories might be sold to the State and subdivisions thereof, but could not be sold in the open market in competition with the products of free labor. Mr. Brockway thoroughly approved of this law, which he says:

> Makes industrial education of the prisoners the supreme object, directs their classification, gradation and education, permits the conferring of pecuniary rewards and authorizes conditional release of such prisoners as properly qualify themselves for safe inhabitancy.[1]

The keepers and officers of many other institutions were not so resourceful as Mr. Brockway. The result was the deterioration referred to in county penitentiaries, county jails, and workhouses throughout the country. Occasionally a county penitentiary, like that of Kings in the old city of Brooklyn, was placed upon a self-sustaining basis by an enterprising and resourceful warden. At times since 1895 there has been developed a reformatory institution where the work is conducted from the modern viewpoint; but limited appropriations have prevented the production of goods on a sufficient scale to make the institution self-sustaining.

A helpful and wholesome development during the past ten or fifteen years is the farm colony prison, such as that at Guelph, Canada; at Comstock, New

[1] Brockway, Zebulon R., Op. Cit., p. 304.

York; and the Washington, D. C., Workhouse and Reformatory at Occoquan, Virginia. These, operated along State use lines, have made provision for agricultural and other work which has not released products for sale in the open market in competition with free labor.

Free labor has very little to fear at present from any industries which may be installed in these institutions or in the average county reformatory, county jail, county penitentiary, or county workhouse. Few of the inmates have been trained to skilled industries, nor may they be held long enough to permit such training. The most that can be expected from a special industrial institution of the kind indicated in Chapter X is production which may supply a part of the demand of the State and its subdivisions for certain kinds of manufactured goods. The time and energy of inmates of the other special institutions must be devoted to labor which is more or less unskilled, except in the case of reformatory institutions built along the lines of the industrial school—where more attention must be given to education, even though this work be carried on in connection with productive labor along material lines.

In Minnesota the State prison has been allowed to build up a great manufacturing industry turning out farm implements, binders' twine, and the like. It is able to compete more or less successfully with the highly organized corporations which supply similar farm implements in the open market. This institution is more than self-sustaining, and turns into the State Treasury each year a substantial surplus. The men remain long enough to acquire proficiency, and in many cases are placed in charge of the shops. The

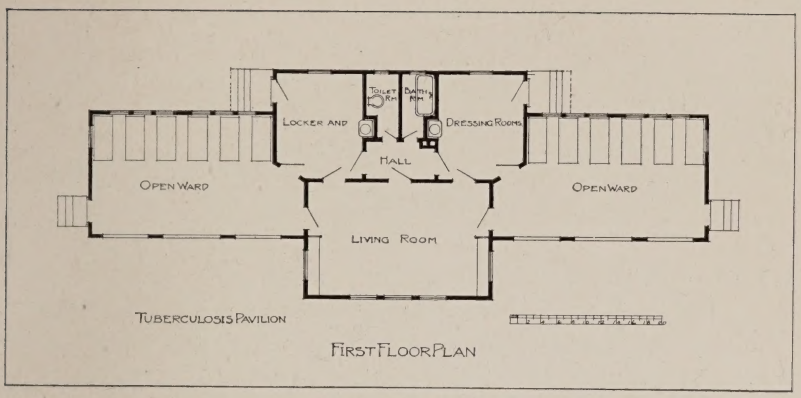
release of such men, of course, may bring them in contact with free labor on the outside; but in such case it is possible to arrange—as the American Federation of Labor has arranged with one or two State prisons in the East—to give these men union cards upon their release, provided they are proficient enough to meet union requirements.

Where it has been impossible to furnish agricultural work in connection with large farm colony institutions there has been a tendency to employ the men at certain productive work beyond the prison grounds—such as road-building, draining of swampy land, and dredging. This brings the labor of the inmates less in conflict with that of skilled labor than does the work in the Minnesota State Prison.

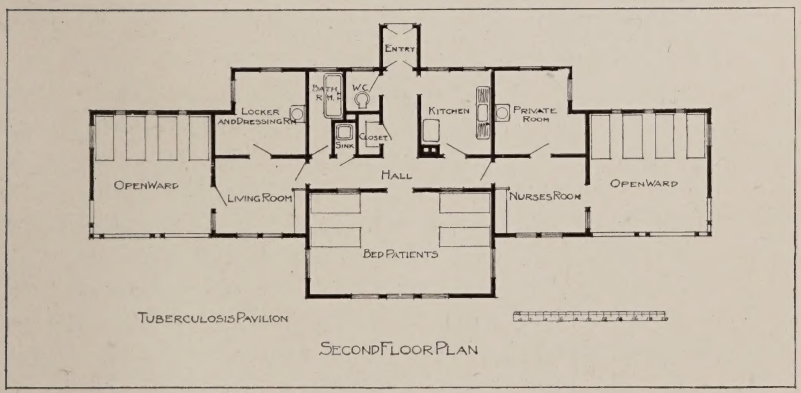
Care must be exercised in outdoor public work to guard against abuses that may creep into construction camps composed of prisoners. The importance of this outside work lies not so much in its actual accomplishment as in the kind of discipline maintained in the construction camps. In many States men are at work twenty-five, even a hundred, miles from the home institution, upon the public roads where there are no locks, no balls and chains, and no guards with rifles. The prisoners thus are placed upon their honor; some of them partly under the supervision of others, who in turn are responsible to officers of the institution delegated to this service. That selected prisoners under careful supervision may be trusted to live in honor camps many miles from the institution is well established. It is no longer an experiment.

There is always danger, of course, that some of

these picked men will wander away from the camp to obtain liquor or to meet friends at secretly designated points. For this reason careful supervision always will be necessary—supervision real, tactful, and effective.



FIRST-FLOOR PLAN, OTISVILLE SANATORIUM FOR INCIPIENT STAGES OF TUBERCULOSIS, OTISVILLE, NEW YORK



SECOND-FLOOR PLAN, OTISVILLE SANATORIUM FOR INCIPIENT STAGES OF TUBERCULOSIS, OTISVILLE, NEW YORK

XII

INDUSTRIAL TRAINING

How, then, are we to organize the industrial or agricultural work of the modern reformatory so that it may be a source of technical training as well as of production? It is not as difficult as many have supposed. The preparation of food offers an opportunity for instruction in domestic economy and in the chemistry of food. The laundry presents opportunities for turning out proficient workers in that line, and occasionally capable directors of laundries such as are turned out at Teachers College, Columbia University. The sanitary and cleaning system may include germ and vermin extermination as an introduction to the study of biology and zoology. The accounting for supplies, and the work connected with examinations and reports concerning inmates offer great opportunities for the organization of special research and practice in accounting and statistical analysis. The water-supply, the care of live-stock, vehicles, and implements, farm work, tree-planting, and landscape-gardening, all lend themselves to organization of practical work at every point where the co-operation of the United States Department of Agriculture and the State Departments of Agriculture and of Water Supply and Conservation may be secured in perfect-

ing the courses of instruction. Each institution should make the clothing and shoes of its inmates—which involves real trade training. After the every-day institutional work has been organized along these lines, there still remains opportunity for training in connection with the productive work of furnishing supplies to the State government and its subdivisions. This market is very extensive and embraces a number of trades.

The difficulty that attends training of this sort is that government lags so far behind industry in development and methods. It never is up to date. That is the price we have had to pay for the abolition of the contract-labor system and the piece-price-labor system. The private contractor's product would not be accepted by the people unless it were as good as others—which meant that the private contractor must carry on his work by up-to-date methods. The development of the machine in industry has been so rapid that reduction of cost and improvement of product through that medium have outstripped any reduction of cost through low wages and any proficiency of prison labor in shops which were poorly equipped.

The State supply system itself must share responsibility with the heads of institutions for failure of the latter to maintain shops equipped with up-to-date machinery. It has been alleged that both have been friendly with contractors supplying goods to the State and its subdivisions, and have wilfully condoned the turning out of products which fail to meet the standards set up by private industries. Be that as it may, the fact remains that the industrial methods of most correctional institutions are from fifteen to

twenty years behind the time. Men are required to work upon machines which have been discarded by the regular trade for several years. This means not only an inferior product, but the ultimate release of men trained to labor by methods long out of date; and this is practically equivalent to no training. In fact, in many cases they are more seriously handicapped than if they had not been given any training at all, because they must unlearn much before they are able to fill acceptably any place in foundry, shop, or factory.

What is to take the place of the initiative of the private contractor in forcing the development of such institutional training as will fit the offender, upon release, to earn a decent and respectable living for himself and his family? The answer may be found in the establishment of close working relations between those responsible for institutional work and those responsible for securing work for the prisoner released. As already suggested, there is every reason why the experience of the institutional manager should be utilized in the care and treatment of inmates released from our institutions. If the criticisms of the man or the employer of labor can be brought to bear directly upon institutional managers —or at least indirectly, through parole officers—it ought to be possible to force up-to-date methods; especially if the institutional manager who allows his plant to deteriorate and his methods to become archaic is forced out of his position as a penalty.

How is the institutional manager to keep abreast of the times? How is it possible to utilize the existing staff to this end? Fortunately for the average manager, his institution is usually undermanned. There

is abundant reason for increasing, or even doubling, the force employed. New men taken on should be practical instructors in the trades and in the various branches of education—men capable, because of their personality, character, and experience, of keeping order within the shops. In other words, the interest and enthusiasm which they may be able to awaken in the inmates will be a stronger compelling force than is the club and the gun carried by the guard in the old-fashioned correctional institution.

This does not mean that we are to dispense with present employees. Ordinarily men who have grown old in the service without acquiring ability to teach their charges how to do really useful work may be placed in positions which require the services of guards or watchmen. Employees who are naturally capable may be encouraged by the introduction of training-schools, where the special staff employed in training the inmates may be utilized for the training of the present institutional staff as well. Under this plan the enthusiasm and loyalty of the existing staff may be held at white heat, because the trade instructors and others must needs have several years of experience in handling men and women of the type committed to correctional institutions before they can become thoroughly proficient. In the ordinary institution, therefore, the experience required of the guard, the keeper, and the instructor under the old conditions will be very helpful to the instructors brought in to develop the new régime.

The excellence of reformatory work will depend to a considerable degree upon the amount of individual attention given to inmates by the instructors, officers, and guards. The correctional institutions as well as

the schools have suffered somewhat because one officer or teacher has been placed in charge of too many inmates or students. The average in most correctional institutions is one paid employee to about twenty persons; whereas in the best reformatory the number is about one paid employee to five inmates. In the public-school system it is said that special classes should not number more than sixteen or seventeen, and the ordinary class should not be composed of more than thirty students. Lectures, however, may be delivered to two or three hundred students or to three or four hundred inmates of a correctional institution.

Where inmates are held for long periods it may be possible to fit them for training other inmates to an extent that will permit a reduction in the number of paid officers, and, therefore, in the expense of maintenance. Under present conditions, however, there must be no compromise with those who hold that we can depend upon inmates to supply the demand for capable employees. There must be an increase of paid employees capable of supervising inmates of practically all our correctional institutions. When the terms of imprisonment are lengthened sufficiently in institutions properly manned with capable and trained employees, it may be possible then to develop inmates to take the place of the trained paid workers.

Sentences to Hard Labor Impractical. Many States still have laws authorizing the judge to decide whether a convict shall be sentenced to hard labor or not. This law is practically a dead letter, because there is not work enough to be done to permit division of the men into grades and classes according to severity of labor. Furthermore, the judge rarely has oppor-

tunity to acquire information enabling him to determine whether such a sentence should be imposed. With the clearing-house in operation, and with institutions organized along the lines heretofore indicated, it will be possible to acquire such information and to assign men to work best suited to their needs—even to utilize work as a kind of punishment where this is believed to be necessary or proper.

Certain well-meaning sentimentalists argue that the labor of an inmate of a correctional institution is forced or slave labor, therefore a form of abuse imposed by superior authority, and not to be tolerated. So far as their criticism is aimed at unproductive and aimless labor—the curse of such institutions since the middle of the seventeenth century—it is justified. So far as their criticism is a protest against productive work under conditions which train the worker to become a more useful citizen upon his return to society, it is not to be tolerated. Those who have broken the law do not belong to any privileged class. Idleness means a curse to them as well as to the community. Although we may hold the community responsible for the delinquency of the offender, this is no reason for allowing the offender, in prison, to continue in idleness and without training. Wholesome labor, under wholesome conditions, is best calculated to train him to overcome the obstacles which confront him.

Book-school Training. Some object to the introduction of trade training and productive work on the plea that it will eliminate opportunities for book schooling. In the outside world most young men have been leaving school on completion of the fifth grade. A small minority have been allowed to continue

INMATE MOWING, NEW YORK CITY REFORMATORY, NEW HAMPTON, NEW YORK

through the upper grades or through the high school, and only a privileged few have gone beyond that point. Most of our young people are forced out of school at an early age in order to help as wage-earners. If they continue their training they are forced to do so in night school or in the late afternoon continuation school. Very few inmates of correctional institutions have gone beyond the fifth grade of the public school; and they are certainly no better than the young men and young women in the outside world. They are not too good to spend time in evening schools.

The institutional organization should provide for productive work during the ordinary working-day and for the development of the book school and other study work during the period which is now utilized chiefly for swapping stories about criminals—that is, the time between dinner and lights out. Here is ample opportunity for teaching English to foreigners, for classes in arithmetic, geography, simple mechanical drawing, stenography, typewriting, bookkeeping, and the commercial branches. There is time during these hours for lectures, and especially for teaching of geography, history, and the drama by means of the moving picture—which is the greatest means of teaching the type of person committed to the ordinary correctional institution, because such persons are usually deficient in imagination and therefore are not able to visualize what they read. The moving picture visualizes for them and takes the place of that imagination which is necessary in the reader of the printed page if he is to understand clearly what those pages contain. The day is coming when the moving picture will be utilized in the evening continuation schools in the regular educational system for

the teaching of biology, zoology, geography, history, the drama and most of the other subjects where visualization is an aid to the understanding. There is no reason, therefore, for delaying its introduction in the correctional institution.

During this same period there is sufficient time for military drill and for such recreation as is not had on Saturday afternoons and Sundays. The well-planned institutional régime will so occupy the time of the inmate with interesting activities that he will not have opportunity to think of his old life and his old associates, and the "old timer" will not have opportunity to influence the less experienced or hardened offenders in the direction of criminality. Psychology and pedagogical methods have clearly demonstrated that the individual cannot prevent a modification of his personality through sensations which are constantly conveyed by his nervous system to his brain—which is constantly influenced by personal experiences. The old saying has been found to be scientifically correct, that if you sow a thought you reap an act, if you sow an act you reap a character, if you sow a character you reap destiny.

Supervision of Work and Training. The superintendent of the institution must be in supreme charge. There can be no compromise with this plan of organization. Men capable of developing work along various lines may be employed, but all must be amenable to the superintendent. Boards of managers and their agents in charge of different branches of the correctional work of the State or of a city may direct what policy shall be carried out in an institution, but if they interfere with the detailed management in such a way as to lessen the power of the

superintendent in the administration and every-day work, best results cannot be obtained. Wherever it is clearly demonstrated that a superintendent is incompetent he should not be continued in that capacity.

This, of course, does not mean that there should be any concession to politics. It means simply that there can be no successful division of power which contemplates that a supervisory authority shall attempt by a book of rules, or by any means, to carry out work which can be successfully carried out only by the responsible officer directly in charge of the institution every hour of the day. In other words, a correctional institution, above all others, cannot be managed by men in absentia. Any State correctional system which calls for superintendents of industry, of medical work, and of education, who shall be supreme over the institutional superintendent in carrying out administrative work in these various fields, is sure to be less successful than the type of organization which establishes this central means of control for purposes of policy-making, but which does not allow the State Superintendent of Industry, the State Superintendent of Education, and the State Superintendent of Medical Service to interfere with the details of institutional management.

Some may feel that it is not possible to work out a plan whereby the policy-making work and the administrative work can be divided between responsible officers. The answer to this objection is that it has been done in private institutions with great success, and that it can be done in government—and must be done in government if government is to be properly efficient.

XIII

INSTITUTIONAL MANAGEMENT

INDUSTRIAL, agricultural, and educational work is important, but it is not the chief factor in governmental correctional effort. The institution must be highly organized primarily to carry on effectively its main work of turning out men worthy of citizenship in the workaday world. This work consists, first, of receiving and classifying prisoners; second, of caring for them and preparing them for release; third, of releasing them and of exercising supervision over them after release in accordance with some follow-up system. The office business of most institutions is very extensive, and unless they are organized as efficiently as modern industrial plants they will usually fail to produce desired results in the field to which they should give the greater part of their attention.

Reception Procedure. How is an institution to organize its work of receiving prisoners? In the first place, there should be an established routine so that certain definite information may be recorded upon a man's arrival or as soon thereafter as possible. The curse of the old institution was that it knew nothing about the incoming prisoner unless, perchance, he had been committed to that institution before—

although the court may have conducted an extensive trial, and probation officers may have made extensive investigations by order of the court. Under the old system the body of the prisoner was delivered to the institution by the sheriff, with an order of the court directing the warden or head of the prison to keep the prisoner safely until he had served the term set down in the commitment. Such procedure is wholly unsatisfactory. If the institution is to do satisfactorily its main work of preparing the offender for his eventual release, it cannot have too much information about his life and associations. The collection of such information will be greatly facilitated if a copy of the probation officer's report which has been furnished the court accompanies the commitment papers. This will serve as a basis for further investigation.

As soon as the prisoner is received information as to name, address, offense, religion, and family conditions should be secured. He should be given a bath, and all his street clothing should be sent to the sterilizing-room. After the bath and a preliminary examination by the doctor, the inmate should be given clean clothes; he should have his fingerprints and his picture taken, and, where the doctor prescribes it, his hair cut. Then he should be interviewed by the superintendent.

This interview is very important because it enables the prisoner to secure first-hand information about the institution from its responsible head and furnishes the superintendent with direct information about the inmate. The warden or superintendent should aim to establish friendly relations at once and to impress upon the man that the main purpose of the institutional work is to help him to prepare for his

release and eventual rehabilitation. He should be encouraged to give full and definite information, and the warden should make a record containing the following: the inmate's name, age, regular occupation, nationality or nativity, religion, whether he is a citizen or not, his education, facts as to his habits—that is, whether he uses liquor, and if so, how much and what kinds; whether he uses tobacco, and if so, to what extent; whether he uses drugs, and if so, what kind and how much; whether he has associated with bad characters; if not a citizen of the United States, how long he has been in the country; a list of the places where he has lived; how long he has lived in each; why he moved, and the general reputation of each community in which he has lived; full information as to employers and occupations, dates of employment, record of work performed, wages received, and why he left each place.

Information concerning family life, experiences during infancy, childhood, adolescence, and adult life, is of great importance, as it may explain many things otherwise difficult to understand or may serve as a basis for further investigation by competent field agents or investigators. This information should include, where possible, names of parents—stepfather or stepmother, wife, children, and other relatives, with addresses, ages, where born, and occupations, if any. This record should be followed by the warden's personal estimate of the inmate.

An institution organized on the old prison basis could not obtain much reliable information of this kind unless the most careful field investigation were made in order to check up every point. But if the law permits proper reward for work, character, and

conduct, it is possible at this first interview for a well-balanced and fair-minded warden to secure much valuable information.

After this interview a careful examination of the prisoner should be made by the resident physician. The latter's report should give a brief diagnosis of the prisoner's present condition, and show whether he has any physical or mental blemishes requiring treatment or further investigation prior to treatment; what diseases or illnesses he has had, whether he has suffered any bodily injury, whether he is a user of drugs, alcohol, or tobacco; a review of his family history to ascertain whether there has been epilepsy, syphilis, tuberculosis, alcoholism, or mental disorders, and if so, what members of his family were so afflicted, and when. This report should close with a summary of the doctor's impressions and recommendations.

The head school-teacher of the institution should interview the inmate next, to ascertain what schools he has attended; length of attendance; if graduated, when, and if not, what grade he attended; his knowledge of arithmetic, reading and writing and other simple branches. If he left school before he had completed his schooling, or at an early age, the reason should be definitely ascertained. This interview and report should not be closed until the teacher is in a position to recommend what studies the inmate should undertake in the institutional school in order to fit himself for release and rehabilitation.

As soon as the educational report is made out the foreman of industries should interview the inmate to ascertain his physical capacity for work—which, of course, should be based in the main upon the doctor's report. He must ascertain also how old the inmate

was when he started work; how long he was at his last job; the kinds of work at which he has been employed; the longest time he has held a position; and what kind of work he would like to take up. The foreman of industries should recommend in his report what work the inmate should undertake. As the institution is not always able to furnish the work which seems most desirable, a recommendation must be made as to what kind of work can be furnished which is best calculated to prepare the prisoner for earning a living after release, and for advancement, if possible, in his chosen field.

When these interviews have been completed the superintendent should review them to ascertain what, if any, additional information should be sought and how the inmate is to be classified, whether with the young first offenders, with the second offenders, with the third offenders, with the degenerates, with the incorrigibles, or with some other class.

It is best to assign the inmate to reception quarters for at least two weeks, the usual period of incubation of an ordinary disease. During this period he has some opportunity to become accustomed to institutional life, and the officers can observe him and determine to what part of the institution or to what other institution he should be transferred.

Conduct and Work Records. After the prisoner has been assigned to his division and work, a careful record should be kept of his character and conduct and of his development in that work. There should be at least a monthly conduct report made by the officers who are in the best position to observe him. This should show whether he is eager, willing, indifferent, erratic, or rebellious in his attitude toward the

officers, whether his work has been excellent, good, fair, poor, or a failure, and any other points which the recording officer may deem essential. The work report should be based upon a daily record of the officer in charge, and so formulated that the superintendent or foreman of industries may check it up to ascertain whether it is accurate or not.

The record system depends somewhat upon the kind of sentence imposed upon the offender. He may be committed under a flat sentence, with provision for commutation for good work and good conduct, or under an indeterminate sentence. If under a flat sentence with no provision for commutation or parole, the record system need not be as extensive as where there is provision for commutation or parole, or both. But in any case, definite facts about the institutional treatment of the inmate and about the inmate's progress should be made a matter of record, because it is often necessary for the institution to recommend to the court whether fines imposed should be remitted for good conduct and work performed, and because it is frequently necessary to make investigation as to whether the inmate has been improperly treated.

The record system, where there is provision for commutation and parole, should be based upon the system of administration. Commutation and parole laws are usually administered through the marking system or the grouping system. Where the marking system is in operation the prisoner is awarded a certain number of merits or demerits daily, based upon demeanor, work, school progress, and, under certain circumstances, upon physical condition. According to this plan, a man is not required to serve a certain

number of days or months, but to earn a certain number of merit marks. Usually the number of marks he may earn in a day have a certain minimum and maximum, and the superintendent hands the inmate a list showing the number of offenses, and the number of demerit marks which may be entered against him. As a rule, there is a certain maximum demerit mark for each offense, but there is nothing to prevent the superintendent redeeming demerit marks if the inmate, by later good conduct, shows that he is worthy of such consideration. Below is presented a list of offenses for which maximum demerits may be imposed:

Offenses	*Demerits*
Absent without excuse	200
Altering clothing	200
Assault or attempt	600
Assumption of authority	100
Carelessness	100
Clothing not in order	100
Crookedness	500
Destroying or damaging institutional property	1,000
Destroying or damaging property of others	1,000
Disobedience of orders	300
Disorderly conduct	300
Escaped, or attempted	3,600
Fighting, or attempted	300
Having forbidden articles in possession	500
Inattention	100
Insolence to officer	200
Lying	300
Immoral conduct, or attempted	1,800
Infractions of shop, squad, or class rules	300
Insubordination	500
Larceny	500

Offenses	*Demerits*
Malicious disturbance	1,000
Malicious mischief	500
Malingering	300
Out of place	100
Poor work	100
Profanity or vulgarity	300
Possessing weapon	600
Quarreling	200
Shirking	200
Smuggling letters in or out	500
Threatening	500
Untidiness	100

If it be assumed that ten demerits may be redeemed by perfect conduct each day, we may drop one cipher from each of these maximum demerits and thus have the maximum number of days a man may be required to serve for the offenses listed. This is a modification which was introduced in the penitentiary at Blackwells Island when the parole and indeterminate-sentence law went into effect on December 28, 1915.

A modification of this system is in operation in Elmira Reformatory, where demerits are expressed in terms of dollars and cents. For example, if a boy is fined one dollar he must serve a month's additional time unless his fine is redeemed by good conduct or otherwise.

Where such a system is in operation the officer in direct charge of the inmate reports any infraction to the chief disciplinary officer or court, or superintendent; and the superintendent approves or disapproves this report after hearing the inmate and the officer and such witnesses as either desires to call. At the end of the week or month the institutional

register is made out showing the merit and demerit marks earned by each individual, as well as the number of redemptions made by the superintendent—a summary of which should be placed in the hands of each inmate so that he may be kept informed of his progress.

Under the grouping system the inmate is placed in a certain group according to the length of time he is to serve—one to six months, six to twelve months, twelve to eighteen, eighteen to twenty-four, and so on. Such a system may be adopted where there is commutation or parole, or both; but inasmuch as the allotment must be made after careful investigation of the prisoner by the authorities, both institutional and field, such a grouping should be tentative; for there should be ample opportunity for the inmate, by good character and good work, or by disobedience and poor work, to shorten or lengthen his period of imprisonment in accordance with a well-adjusted plan of awarding merits and demerits. For example, inmate A may be allotted five months and placed in group 1, but by bad conduct and poor work may lose two months' time, find himself in group 2, and be required to serve seven months before parole or discharge. Time may be subtracted for proficiency in the industrial shops or in the ordinary work of the institution, for good conduct or for special service of any kind.

Rarely, if ever, has the superintendent or warden been vested with final authority to determine the time of release upon parole except in accordance with the plans laid down by superior authority. In the case of commutation this superior authority accepts or rejects his recommendations, which are made in

accordance with law and established procedure. In the case of parole and indeterminate-sentence laws, the minimum time as well as the time of release and the conditions of parole are determined by a parole board or commission. Such a commission usually lays down rules for the guidance of the warden or superintendent as to demerits and merit marks—subject, of course, to review by the board or commission.

These general rules may vary in accordance with the institution and the system of administration. The Parole Commission of the city of New York has established general rules which are calculated to meet the needs of each institution whose inmates are subject to its jurisdiction.

The marking system is at present in operation at the New York City Reformatory. Following are the general rules established by the commission for that institution:

1. As soon as practicable after admission of a prisoner the member of the commission assigned to this institution shall review all the papers in the case, including court reports, investigations of probation or parole officers, original interview blank, medical report, etc., and, where desirable, shall interview the inmate and the superintendent of the reformatory at the institution.

As a result of this study he shall recommend, at the regular meeting of the Parole Commission following, the minimum number of credit marks which shall be necessary in order that the parole of the individual may be considered by the commission.

2. The present penalties for infractions of rules shall be done away with. In place thereof a maximum number of demerits shall be established by the com-

mission for each offense. The superintendent shall determine the number of demerit marks to be given to each inmate for specific offenses within this maximum limit, and such demerit marks shall be subtracted from the credits already earned.

3. The case of each individual who has earned the number of merit marks required for consideration shall come up at a stated meeting of the Parole Commission next preceding the date on which such marks shall have been earned. It shall be within the province of the commission to demand, first, in addition to the earning of this number of merit marks, the resident physician's certificate stating the condition of health of the inmate; and second, assurance that work and a suitable home can be provided the inmate upon release. Upon every case, regardless of the provisions as outlined, the commission reserves the right to act in the manner which in its judgment best safeguards the interests of society and the individual offender.

4. The above rules shall not be interpreted so as to prevent the commission from giving consideration to any special case which may be brought to its attention by the superintendent of the institution or by a member of the commission, upon the presentation of new facts in the case.

The grouping system was tried out in operation at the penitentiary. The rules applying to that institution were then as follows:

1. The member of the commission assigned to the penitentiary shall review all the papers in the case of each inmate as soon as practicable after admission, and shall, where desirable, interview the inmate and warden at the institution, and on the basis of this

study shall, at the next meeting of the commission, recommend to the commission the minimum period at which this case may come up for consideration for parole.

2. If the commission as a whole acts favorably upon the fixing of this minimum, the commission shall then notify the warden of the institution of the minimum time at the expiration of which he may recommend the case to the Parole Commission for consideration. Those whose minimum is six months or less shall form group 1; those whose minimum is between six months and one year shall form group 2; those whose minimum is between one year and one year and a half shall form group 3; those whose minimum is between one year and a half and two years shall form group 4; those whose minimum is between two years and two years and a half shall form group 5; those whose minimum is between two years and a half and three years shall form group 6.

The warden shall inform the prisoner of the group to which he belongs, but not of the exact or approximate time within the group. This does not, however, do more than provide a time for consideration. At the expiration of the minimum term decided upon by the commission the warden shall present the prisoner's name to the commission, together with a report as to his physical health, his industrial efficiency, and his conduct within the institution, for the purpose of determining whether parole may be granted at the expiration of this minimum period, or whether the physical or behavior elements in the case warrant a longer detention.

3. Rule 2 shall not prevent a special consideration of a case, either upon the recommendation of the

warden or a member of the commission, or upon the appeal of the inmate himself to the member of the commission designated to a particular institution. In the latter case, however, before presenting the application of the inmate to the full board, the commissioner shall have an interview with the warden and shall be convinced that the merits of the case make it desirable to have it taken up in the full board, but no prisoner shall be placed on parole under such circumstances without the affirmative vote of three members of the commission.

A modification of the grouping system has been applied in the case of the workhouse. This institution receives, under indeterminate sentence, offenders who have been convicted a number of times of minor delinquencies—particularly those guilty of disorderly conduct, vagrancy, and prostitution. The rules governing the treatment of these prisoners are as follows:

1. As soon as possible after the records of the cases are assembled, the commissioner assigned to the workhouse shall review the evidence in the case and shall interview the inmate, if desirable, and the warden or superintendent of women, and shall determine the maximum time which may be earned by the individual by good conduct, and this recommendation shall be made at the next meeting of the Parole Commission, who shall act upon it and shall transmit its findings to the warden of the institution.

2. The commission, in all workhouse cases, shall receive a certificate from the resident physician to the effect that the prisoner has, first, no disease which could be cured by longer confinement; or, second, that he has an incurable disease which longer con-

finement could not hope to improve; third, evidence that a home, and, if possible, work are immediately to be had for the prisoner upon release.

3. The above rules do not prevent a special case being brought before the attention of the commission as provided for in section 3 of the penitentiary rules.

The commission has modified the grouping system in the penitentiary and has adopted a marking system, so that the inmate and his family may know when he may be released if all goes well. A man in the highest group may earn a high maximum of marks per day, while a man in the lowest group may earn but four merit marks per day. While undergoing punishment he may not earn any merit marks at all. In these cases the groups are classified, not as to time to be served, but as to the character and standing of the inmate. So that a feeble-minded or an incorrigible inmate may be placed in a low group where he may earn but a small number of merit marks per day. Thus his stay in the institution is prolonged.

The possibilities of abuse under any such system are considerable, of course, but the system itself provides for a number of reviews by different persons and agents, so there is every reason to believe that abuses or delinquencies may be easily ascertained. One general rule made by the commission is that no application for parole will be received from any outside source. In Indiana this is a provision of the parole law itself. It means that since the prisoner's guilt has been determined by a court of competent authority, the commission will refuse to receive any briefs or applications from lawyers and friends of the prisoner who cannot have first-hand information about the inmate while in the institution. Any facts in the

possession of any one may be laid before the commission; but because of the press of work the commission was forced to decline to rehear any inmate's case. Since a member of the Parole Commission is assigned for a stated period to each institution, it is believed that any abuses by institutional officers will be discovered by the commissioner, and that any failure of the commissioner to appreciate fully the necessity for institutional work and discipline will be ascertained by the commission as a body through the rules—which enable the superintendent or warden to lay all the facts in his possession before the commission as a whole. The warden or superintendent is given protection against undue pressure and interference by the procedure itself, which requires him to make out what is called a pre-parole report summarizing the institutional record, conduct and character of each inmate in advance of final consideration of his case by the Parole Commission sitting as a body.

In dealing with the workhouse population the commission has been forced to consider, apart from work and conduct, the prevalence of blood and local diseases which require treatment for a considerable period. A plan has been adopted whereby the cooperation of the Health Department of the city and of the clinics established in private hospitals may be secured, to the end that releases may be made under certain circumstances before a course of treatment requiring years for completion is carried out.

Work Records. It is perfectly logical to extend the marking system beyond questions of discipline and order, to credit for work and special service. This is particularly necessary where a man's work and

service help him to earn his parole. Such a change was very easy at Elmira Reformatory, where the marking system expressed in terms of dollars and cents was already in operation. It would not be at all difficult where any form of the marking system is in operation, because it would be possible to fix a certain amount of work as the equivalent of a certain amount of merit marks. At the George Junior Republic, William R. George introduced a token currency, originally made up of different-colored cardboards, and adopted a plan whereby a certain amount of service would entitle an inmate to a certain number of pieces of cardboard equivalent to a certain number of cents or dollars. Here the plan was extended so that an inmate—or citizen, as he was called—was required to purchase his bed or rooming-place, furniture for the room, food and clothing, with the token money thus earned. Where a man was a vagrant and earned nothing he was placed in jail and treated on the theory that he who will not work shall not eat. The adoption of this system had a profound effect upon the development of the George Junior Republic.[1]

Mr. Osborne introduced token currency at Sing Sing Prison and endeavored to raise a fund so that the token currency might be redeemed in lawful currency when the prisoner was released. This system will probably not be entirely satisfactory until the token currency can be redeemed; but there is no logical reason for withholding development of the various merit and demerit plans to include work performed and rights to certain privileges within the institution. A well-formulated extension of this idea

[1] George, W. R., *The Junior Republic: Its History and Ideals*, pp. 86–104. D. Appleton & Co., New York, 1911.

will exert salutary pressure upon the inmate and help to develop in him initiative and self-control. In the industrial shops and elsewhere throughout the institution it is feasible to develop a piece-work plan upon the merit system.

XIV

INSTITUTIONAL PROCEDURE

Punishment. The imposition of punishment is one of the most difficult questions with which to deal; first, because of the necessity of maintaining order and discipline; second, because of the rather stringent laws governing punishment; and third, because of the necessity of preventing abuse and maltreatment in the infliction of punishment.

There is a wide difference of opinion as to methods in discipline. The tendency of statute law is to prevent corporal punishment or to restrict to the lowest minimum the right to inflict blows. In the State of New York blows may be inflicted only in the following cases: First, to prevent an escape; second, to prevent a riot; third, in self-defense. There are other forms of punishment usually forbidden by law which are not regarded as corporal in form, such as drenching with water, unreasonable deprivation of privileges, and the like. The law usually requires, too, that where blows are inflicted, whether lawful or not, a report of the incident must be made by the medical officer of the institution and by the superintendent; the medical officer's report stating the exact condition of the inmate after the blows have been inflicted.

The tendency of prison law during the last twenty-five years has been to substitute solitary confinement for corporal punishment. The present law of the State of New York, after forbidding corporal, cruel, and unusual punishment, defines solitary confinement upon short rations as the kind of unusual punishment permitted by the law, and the medical officer is required to visit daily the inmate undergoing confinement, to make a report upon his condition, and to order release from such confinement when, in his judgment, the conditions requires it.

In the administration of punishment it is very necessary for the superintendent to ascertain whether the inmate is being unjustly treated. To this end, there should be a chief disciplinary officer, in addition to the physician and foreman of industries, reporting upon each case of infraction of the rules which calls for punishment. The superintendent should be in a position to call any witnesses desired by either the defense or the prosecution, or by the chief disciplinary officer, and after all the facts are ascertained to accept or reject the recommendations of his subordinate officers. In self-governing institutions having an inmates' court this court can collect much information.

Under this procedure the inmate is always assured of review of his case by the responsible head of the institution and also of consideration of his case by those most familiar with his conduct, his physical and mental condition, and the general conditions of the institution. The superintendent should determine also whether the inmate should be punished by loss of time, by demerit marks, by loss of privileges, or by confinement in an isolated cell. The chief

reason for all this careful consideration is that legislation forbidding corporal punishment, and establishing solitary confinement on short rations as a substitute, has often made institutional heads careless in imposing punishment, and isolated confinement has been overdone.

Little or no consideration has been given to the psychological questions involved in punishment where demerits and deprivation of privileges for a short period operate to bring the inmate to a realization of his conditions and to a determination to act as a self-respecting member of the institutional community. In this field the personality and training of the warden is of first importance. A resourceful warden of strong personality is usually able to achieve the best results without recourse to severe punishment, and such punishment is resorted to only as a last resort.

During the past two years the question has arisen whether the institution shall be allowed to administer the punishment for serious offenses such as assaults, gross immorality, burglary, and larceny. The usual practice as to State prisons and penitentiaries has been to allow the institution to administer punishment for all infractions of rules which would amount to crimes and misdemeanors, except major crimes, such as manslaughter and murder.

The issue was raised in connection with Thomas Mott Osborne's work as warden of Sing Sing Prison. Mr. Osborne had established an inmates' court, where the responsible inmate officers conducted judicial proceedings, including court trials, and where the inmates were encouraged to tell the truth about one another. It was alleged by the prosecuting attorney of

Westchester County that evidence of the commitment of serious offenses by inmates within the institution was brought out before this court, and that the warden failed to report these facts to the district attorney of the county in which the institution is situated—as it was alleged he was required by law to do. Mr. Osborne stated that, with the consent of the superintendent of prisons, he had established the inmates' court, with the warden's court sitting as a court of appeals; and that the inmates participated in this system of government with the understanding that they were to tell the truth in these courts. He contended that such cases ought not to be taken up by outside prosecuting authorities—first, because they never had been handled previously by the outside authorities; and second, because if the cases were thus handled the inmates would not tell the truth in their own courts, but would fall back upon the old system of concealment and evasion which has characterized institutional management almost from the beginning; a system whereby the inmates are banded together against the officers, whom they regard as their enemies, and whereby the inmates are required by *esprit de corps* to stand by one another. The prosecuting officer of the county alleged, on the other hand, that Mr. Osborne had failed to report the commission of these alleged crimes because he would reveal thereby the inefficiency of the form of government established by him. Because of this failure to report these alleged offenses, and for other reasons advanced in court and in the press, indictments were handed up by the Grand Jury aimed at Warden Osborne; but these indictments, after review by various courts, were dismissed.

The basic question at issue was not entirely settled by dismissal of the indictments. In the first place, the laws of the State of New York are not absolutely clear as to how crimes committed within prison walls are to be punished; and in the second place, it is often not possible for the institutional management to impose the right kind of punishment for violations of the rules which in the outside world would amount to serious crimes. Confinement in an isolated cell is not the right kind of punishment where one prisoner has committed a brutal and unprovoked assault upon another, or where one prisoner has forced another, under fear of assault, to become party to grossly immoral practices. Therefore, some lawful method of dealing with the serious offenses must be established. They must be reported to the outside prosecuting authorities or the management must be empowered to deal with them in an effective manner.

In New York State there appears to be no legal warrant for institutional punishment for serious offenses. The penal law states that a crime is an act or omission forbidden by law and punishable, upon conviction, by

> death, or imprisonment, or fine, or removal from office, or disqualification to hold any office of trust, honor or profit under the State, or other penal discipline.[1]

and, further, that

> the punishments prescribed by this chapter can be inflicted only upon a legal conviction in a court having jurisdiction.[2]

[1] Penal Law of the State of New York, art. i, sec. 2.
[2] Op. Cit., art. i, sec. 31.

It is extremely doubtful whether courts established by Warden Osborne at Sing Sing, or the warden himself, had power to punish crimes committed within the prison, despite the fact that these courts may have had the approval of the superintendent of prisons, the responsible head of the State prisons. Practically all superintendents of experience would agree with Mr. Osborne that the warden and his officers should have power to deal with most infractions of rules—even those that would amount to serious violations of law if committed on the outside. Most infractions are of a petty nature; and if it were necessary to secure action by the prosecuting attorney of the county before imposing punishment, it would be impossible to maintain discipline and order. There can be no effective administration of a correctional institution unless the responsible officers are given power to deal promptly with situations as these arise.

Serious felonies are another matter. It is generally impossible for the institution to impose the right kind of punishment for such offenses unless the inmate is committed under an indeterminate sentence, in which case his term can be lengthened for a considerable period for a serious breach of the law. Where men are committed for definite periods it is rarely possible to lengthen the term so as to provide anything like adequate punishment.

The best solution of the problem, probably, would be a law empowering the warden or superintendent to sit as a magistrate and to determine finally what action should be taken on all minor offenses and misdemeanors, with a provision enabling him, in his discretion, to hold offenders for trial by superior

courts upon information, or for action by the Grand Jury in felony cases. But such a law should require the superintendent to investigate and report promptly all infractions of rules which in the outside world would amount to felonies. This would allow the prosecuting attorney and the courts to determine whether prosecution should be undertaken.

I believe that a modification of this provision should be made where there is an indeterminate sentence, or where there is a board or commission empowered to fix the term of imprisonment of offenders committed to correctional institutions. Where such a law is in effect the indeterminate-sentence or parole board or commission should be empowered to decide what additional term of imprisonment should be imposed in the case of all felonies except sodomy, manslaughter, and murder; but the law should also provide that this board or commission have power to recommend that any particular felony case be turned over to the prosecuting officers and the regular courts for action.

The value of outside court action in maintaining discipline has been well illustrated in the administration of the correctional institutions in the city of New York during the past two or three years. In July, 1914, a serious riot occurred at the penitentiary. The resourceful warden was able to quell the first disturbance and to rush the prisoners from the mess-hall, where the riot occurred, to their cells and lock them in without resort to firearms. Investigation identified the ringleaders. On request by Dr. Katharine B. Davis as Commissioner of Correction, the responsible officer in charge of the institution, one of the city magistrates held court at the penitentiary

to determine whether those accused of complicity in the riot should be held for Grand Jury action. As a result of this and of later court action, the ringleaders were convicted and sentenced to prison for terms varying from one year to five years.

These prisoners all were serving definite sentences, and under the old plan of conducting institutions it would not have been possible for the management to deal properly with them. Nothing but a trial and a conviction carrying an additional term of imprisonment could suffice. The conviction of these ringleaders had an immediate and marked effect upon discipline, and did not produce the constant disorder and irritation which deprivation of privileges or isolated confinement would have produced among the prisoners—not to mention the bad effect of such punishment upon the guilty individuals.

During the fall of 1915 and the following winter two serious assaults occurred at the penitentiary. After investigation as Commissioner of Correction, I laid the facts before the district attorney of New York County, who in turn laid them before the Grand Jury. This action was followed in each case by a court trial, conviction, and sentence to State prison—for four and one-half years in one case and five in the other. This punishment had a most salutary effect upon the prison discipline. It acted as a corrective for a few rebellious spirits in particular, who felt that they might take advantage of the system of government introduced as a result of transformation of the penitentiary discipline from the prison type to the reformatory type. This change was made in August, 1915.

This and other experiences have led me to believe that wardens should be enabled to sit as magistrates,

with full powers of the ordinary police or city magistrates, having discretion to report minor offenses and misdemeanors; and that certain serious offenses should be reported by the warden or superintendent to the prosecuting attorney of the county—except where there is an indeterminate-sentence law and a parole commission empowered to impose an additional term of imprisonment. It appears to me wise to empower the superintendent to sit as a magistrate rather than to have an outside magistrate hold court from time to time, not only because the entrance of the outside magistrate would periodically disturb the discipline of the institution, but because the superintendent or warden is much better fitted to take account of the mental and physical condition of a prisoner, as reported to him regularly by the expert medical staff. Experience has demonstrated that many offenses are committed while the offender is suffering from some mental attack.[1] The superintendent, on the advice of the medical staff, may substitute isolation and treatment for other forms of punishment, where such action would not be possible if an outsider were handling the case.

Clothing. There is no reason at present for dressing inmates of institutions in striped clothing, sometimes called "zebra clothes."

When first he saw the zebra
The donkey wagged his tail,
"My goodness!" cried the donkey,
"That mule has been in jail."

[1] Guibord, Dr. Alberta S. B., *Are the Disciplinary Cases in a Reformatory Identical with Psychopathic Cases?* a study based upon laboratory investigation at the Laboratory of Social Hygiene, Bedford Hills, New York; published in the Proceedings of American Prison Association, 1915, pp. 121–126.

Most men of middle age, or past middle age, can recall the contempt or ribaldry which in their school days was inspired by stripes used in personal attire. These inevitably suggested the criminal and the prison, even to the child-mind.

Such clothing is degrading and usually interferes with the prisoner's development, as it is likely to make him sullen and resentful. There is certainly no adequate reason for putting stripes upon a man when he is received. There should be some distinctive form of dress, of course, in institutions for incorrigibles and abnormals. Even stripes may be reserved for those in the lowest grade of other institutions. A distinctive uniform which fits the prisoner is ordinarily sufficient. Tattered clothing or clothing which fits the prisoner like a gunny sack should not be tolerated. Nothing is more likely to retard the prisoner's development. Human beings are affected in a marked degree by their clothing. This need not be expensive in the case of prisoners, but it should fit the person wearing it, and it should be possible to keep it in a neat condition.

Hair-cuts. That every inmate should have his hair clipped short because it is necessary to clip off the hair of those whose heads are seriously infected or filled with vermin, is an indefensible proposition. The originators of the old prison system first assumed that it would not do to clip or "shingle" the hair where conditions justified this, and merely trim the hair of other prisoners in accordance with the ordinary conventions, because the clipped head degraded a few in the eyes of the remainder of the prison population and resulted in an inequality of treatment. Accordingly, the originators of the old system held

that every man's head should be clipped and should be kept clipped. As a consequence, when a prisoner was released the length of his hair indicated to any one of experience that he was a discharged convict. The older prison men failed to understand that this was a fundamental reason for not turning out an inmate with his hair cut short, and also failed to understand that, in comparison with this consideration, the possible degradation of an occasional prisoner in the sight of his fellow-prisoners because of his clipped hair was a minor matter.

Classification and Sanitation. There should be a classification of inmates based upon character and conduct, as outlined in Chapter IV, with such cross-classification as may be needed to bring about the best results. Those afflicted with blood and local diseases should be isolated, of course, to avoid danger to the health of fellow-prisoners. In the prosecution of certain work, too, it may be necessary to make other classification so that the same group of men may work and live together. No hard and fast rules can be laid down, however, for a system of classification to be applied in any particular institution.

Blood and other tests should be taken at the time of commitment, so that the prisoner's proper classification may be determined, as many diseases escape the eye even of the experienced medical practitioner. Because of the danger of typhoid and other epidemics, no one should be assigned to the work of handling or preparing food who has not been given a blood test and a Widol test.

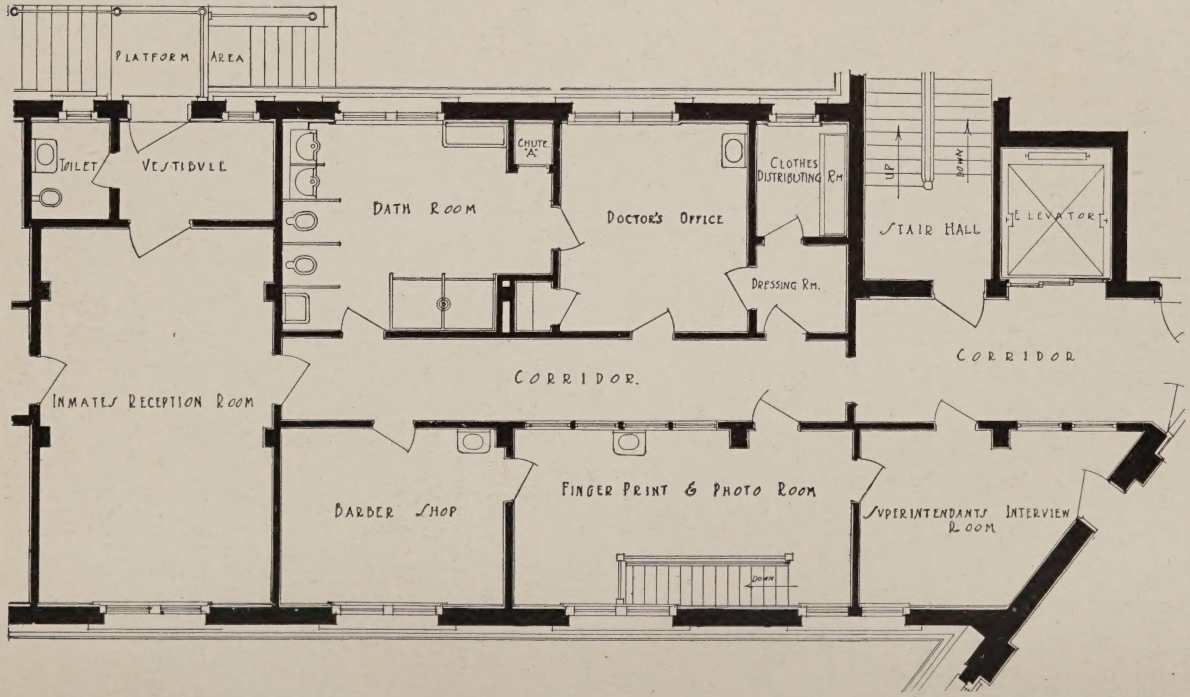
Razors, brushes, and other utensils for shaving should be sterilized at every point, to obviate all peril

of the conveyance of germs where these articles are used upon more than one person.

It goes without saying that every institution should be kept in an absolutely clean and sanitary condition and that constant warfare should be made upon all vermin by every means possible. Institutions equipped with proper receiving and classification facilities are usually able to cope with vermin, because the clothing of the prisoner is entirely removed before he is given a bath and is immediately sent to the sterilizing-room; then those pieces which can be washed are put through the laundry and the remainder is placed in decent condition. The inmate's bath being followed by a medical examination, the doctor is usually able to determine whether any vermin still cling to the person and to make recommendation for their destruction before prison clothing is donned.

A plan of the reception facilities of the New York City Reformatory Receiving and Classification Building is shown here in order to make clear the proper layout.

Food Preparation. One of the most important matters with which the superintendent has to deal is the provision of a well-balanced ration, containing the food qualities demanded by the kind of life institutional inmates must live. Ordinarily, there is too much poorly prepared meat and bread, and not sufficient variation in meat, in vegetables, in cereals, in starches, etc., and in methods of cooking. There is quite as much reason for study of dietaries here as in the case of soldiers in the field. In nearly all institutions in the State of New York it was not possible until recently to provide roast meat for all the prisoners. The usual meal consisted of coffee or tea,



CHARLES B. MEYERS, Architect

PLAN, RECEIVING DIVISION, ADMINISTRATION BUILDING OF NEW YORK CITY REFORMATORY, AGRICULTURAL AND INDUSTRIAL COLONY, NEW HAMPTON, NEW YORK

soup, bread, boiled meat or fish, and boiled potatoes or other boiled vegetable. This was the standard dietary supplied by the Department of Correction of the city of New York up to the close of the year 1913. After the subject had been carefully studied by a skilled dietitian, the following dietary was established:

Monday:
Breakfast—Oatmeal, milk, bread, coffee, corned-beef hash.
Dinner —Green-pea soup, roast beef, gravy, potatoes, vegetables, bread.
Supper —Baked beans, bread, coffee.

Tuesday:
Breakfast—Corn meal, milk, bread, coffee.
Dinner —Mutton stew, vegetables, potatoes, bread.
Supper —Syrup, bread, coffee, stewed prunes.

Wednesday:
Breakfast—Rolled oats, milk, bread, coffee.
Dinner —Split-pea soup, corned beef, gravy, vegetables, bread.
Supper —Stewed peaches or prunes, bread, coffee, ginger-bread.

Thursday:
Breakfast—Hominy, milk, bread, coffee, corned-beef hash.
Dinner —Barley soup, roast beef, potatoes, vegetables, bread.
Supper —Apple jelly, coffee, bread.

Friday:
Breakfast—Rolled oats, milk, bread, coffee.
Dinner —Green-pea soup, codfish, hash, tomato sauce, potatoes, vegetables, bread.
Supper —Baked beans, coffee, bread, ginger-bread.

Saturday:
Breakfast—Hominy, milk, bread, coffee.
Dinner —Barley soup, boiled mutton, potatoes, vegetables, bread.
Supper —Boiled rice, syrup, bread, coffee.

Sunday:
Breakfast—Oatmeal, milk, bread, coffee.
Dinner —Bean soup, roast beef, potatoes, vegetables, bread.
Supper —Apple sauce, bread, coffee.
Sugar and milk to be served with coffee.

Notwithstanding rising prices, it has been possible to supply food in accordance with these dietaries at a cost to the city less than was possible with the old dietaries. The average cost per man of raw food supplied in accordance with the old dietaries was about eighteen cents, and with the new dietaries a little less than sixteen cents. The primary means of saving, perhaps, has been to eliminate the enormous waste of food through poor preparation and the over-supply of a few kinds of food of which the prisoners soon grew tired.

Records and Accounts. The business of correctional institutions should be conducted in accordance with the best business methods. This calls for the keeping of records in such a way as to permit of their being used for comparison and further study. The information gathered in the ordinary institution, if collected and tabulated in a proper way, would be of great value in helping to solve the problem of why there are so many criminals. Unless the records are kept in such a way as to permit proper tabulation it is not possible to make use of much of the experience

gained by those in charge of the chief branches of institutional work. In like manner, it is not possible to establish costs and units of measurement in order to check up expenditures.

Where productive work is carried on, a manufacturing or cost system should be installed, in accordance with which all supplies should be carefully stored and protected. Supplies should not be issued except on proper requisition signed by the head of the institution or his responsible representative—who should be furnished later, by the officer securing the supplies, with a report showing that they have been properly used.

Releases and Discharges. No person should be discharged from a correctional institution unless supplied with a well-fitting, well-pressed suit of clothes, a good hat, and a good pair of shoes, as neatness in appearance is essential if a man is to secure work. He should not be set adrift with no money and no friends. Where the law requires the State to supply him with a suit of clothes and five dollars in money upon discharge, it often happens that he is met near the prison by old criminal associates and persuaded to spend his five dollars immediately in riotous living, and in addition to become indebted to his old friends—who are glad to have him do this, because, without funds, he is more likely to rejoin them in crime in order to secure money with which to pay the debt. If he is a clever man they will go far, of course, to recover him as an associate in their lawbreaking schemes.

Under the definite-sentence plan, where the institution and the law have no control over a man after his discharge, it is extremely difficult to render

aid to him at the time he is reacting most strongly from the restraint of imprisonment and when he is hardly responsible for what he may do — immediately after securing his freedom. If, however, he is released upon parole, placed under the control of parole officers to whom he must report, and is urged and required to procure a position, if possible, he is protected against his weaker self and against his old cronies—whose interest in him generally ceases if they find he is actually "going straight."

Opinions differ as to whether the institution should keep track of former inmates, either directly or indirectly. Some hold that the only hope for a man who has served a term in prison is to get away from his old environment, away from every one who has known him or who in future may recognize him as an ex-convict, and begin anew among strangers. Others hold that he cannot hope to obliterate his record, and that the best thing to do is to begin over again in his home town, so that his old friends, who formerly lost faith in him, may be convinced of his rehabilitation. There is much to be said on both sides of this question. Some people never will trust a man who has been committed to an institution. Others are willing or anxious to give him the benefit of the doubt and help him to regain his position if that be possible; are willing even to put up with his mistakes, provided they believe he is earnestly striving for rehabilitation.

Former Superintendent Brockway of Elmira Reformatory, as the result of his experience, is strongly of the opinion that discharged inmates who have completed their parole periods should not be followed up

or interfered with further by the institutional management in order to ascertain what success they have had in after-life. He says:

In the course of the year 1898 a competent clerk was assigned to make a searching inquiry as to the outcome of all the paroled prisoners during the whole period of the reformatory to that date. . . . The inquiry shows that after the severe test of endurance for so many years 78.5 per cent. lived self-supporting and orderly lives. Such an examination should never again be made. The inquiry reached not only to all the prisoners of the United States, to the neighborhood and relatives of paroled prisoners, but to the paroled and discharged men themselves whenever their addresses could be obtained. The inquiry was conducted with the utmost delicacy and consideration, but it painfully uncovered to the men themselves, and to others who knew them, a remembrance which had in many instances become encysted within the consciousness of the man and his community, and should not have been disturbed. Some of the replies received from the men themselves complained bitterly of what they felt to be the cruelty of the inquiry.[1]

What Mr. Brockway says is undoubtedly true; but he did not urge these considerations as an argument against supervision while the prisoner was upon parole. On the contrary, he, as well as most other prison superintendents of experience, is strongly in favor of parole and of supervision by competent officers while upon parole. This has been set out hereinbefore in discussion of probation and parole. Mr. Brockway's faith in parole is expressed in the following language:

[1] Brockway, Z. R., Op. Cit., p. 297.

It may be fairly claimed for the inquiry and the result shown,[1] however, that it is as creditable to the efficiency of our reformatory training and the parole practice as is to a college or university the creditably useful career of its graduates; that it is quite possible to make the parole paper of a properly trained and released reformatory man as reliable a token of reasonable confidence as a college diploma of a college graduate is reliable as a token of culture and acquired capabilities.

[1] Result of the investigation referred to above. Brockway, Z. R. Op. Cit., pp. 297, 298.

Part II

THE PREVENTION OF CRIME

I

FUNDAMENTAL SOCIAL FORCES

SOCIETY is not doing its full duty unless it is attacking the fundamental causes of criminality and giving attention to those individual and social forces which are directly or indirectly responsible for the development of the offender. A clear line should be drawn, however, between those who are offenders because they refuse to accept restraints imposed by conventional authorities where these restraints are intensely antagonistic to their conscience and better judgment, and those who are offenders either because they are unable to become adjusted to their environment or are willing to become parasites, feeding upon the earnings and exertions of others. Society has not always drawn this distinction. So-called political offenders have usually been treated as if they were offenders of the other type. The results of society's dealings with them have often been most disastrous to society itself and to the unfortunate offender.

The problem before society, then, is to prevent the development of offenders whose careers are antagonistic to progress and social order and to give reasonable encouragement to those who are clearly the prophets of a new order and of a new day. We are not concerned in this discussion with the latter class. There is reasonable hope that science and

investigation will point the way whereby society may develop its control over the great leaders and prophets of the new order of living, to the end that they may not destroy order and social progress because of their haste to secure immediate reformation of existing institutions and conditions. We are primarily concerned, in this study, with the parasitic class and with plans for the prevention of its growth.

The work of prevention must be begun early. The average age of offenders is rapidly declining. Fifteen years ago the average age of men committed to the New York County penitentiary was about 37. At present it is about 26. Judges and juries often comment upon the youth of those charged with murder in the first degree, a large percentage of whom are under 30. During the year 1914, 99,376 persons were admitted to the city and district prisons of the Department of Correction of the city of New York. Of this number 72,465 were 30 or under; while in 1915, 86,625 persons were admitted, of whom 47,576 were 30 or under. The age grouping, segregating the men and women for each year, is shown in the following table:

Age of Prisoners Admitted to All Institutions of the Department of Correction, City of New York, During Years 1914 and 1915

Age Group	1914			1915		
	Men	Women	Total	Men	Women	Total
Under 16.....	3	.....	3	.....	.....	.....
16 to 21.....	16,413	1,023	17,436	16,270	948	17,218
22 to 30.....	35,531	5,735	41,266	26,382	3,976	30,358
Over 30.....	32,390	8,281	40,671	31,389	7,660	39,049
Grand Total....	84,337	15,039	99,376	74,041	12,584	86,625

When confronted with the facts presented in the above table, reformers and students of social problems often assert that some agency or institution established by society has failed of its purpose, since offenders have been allowed to develop. Some hold the church responsible, some the home, and some the school or the State. Others, however, hold the individual entirely responsible and social institutions practically blameless. The differences of opinion raise serious questions as to the efficiency of the institutions created by society.

The Church. The church has been a tremendous factor in social evolution; but it has lost considerable power and influence which it formerly wielded, largely because organized government has taken over much of the work formerly performed by the church. It has lost influence to a certain extent also because men have responded to their physical environment more rapidly than to the spiritual—apparently because the physical can be seen and is something which a man knows he may change through his own exertion and that of his fellows. Man's consciousness of his power to practically revolutionize his physical environment has laid hold upon his imagination and interest strongly enough to encroach seriously upon his interest in the unseen, the spiritual. The church, therefore, has often been allowed to maintain those relationships and to promulgate those ideas which were the outgrowth of an earlier period of social evolution, whereas present relationships and forces fill the mind of the ordinary workaday man in the midst of a more or less materialistic world. Thus emigration and immigration have had a tremendous effect upon the de-

velopment of the church and have interfered seriously with its work.

It has been impossible for the church organization which was satisfactory to men living within the pale in Russia or Roumania or other sections of Europe to remain wholly satisfactory to these same people after migration to other countries. It has been even less satisfactory to the children of those who have migrated; to them certain ethical and religious maxims and practices have quickly lost their significance—especially in America. Some of these religious practices have had to do with health and sanitation, but have been placed by tradition and custom upon a footing almost equal to the fundamental principles of religion itself.

When the young people once learn that these conventions have lost their significance in the New World they frequently fail to apprehend the fundamental differences between these rules or customs and the Ten Commandments, and feel at liberty to violate the latter as well as the former. Frequently the result is moral shipwreck. If these younger people could be persuaded to acquire more experience before they discarded all the teachings of their fathers it would be possible eventually for them to appreciate the fundamental differences between national customs which have been given religious sanction and the fundamental principles of man's relation to his Maker. Their eagerness to become Americanized, as they understand it, is often their undoing.

It is incumbent upon all religious leaders and teachers to prevent the shipwreck of young lives. Where the parents are regarded by their children as "old fogies" and out-of-date, the religious teacher

must come to the rescue and offer that help and advice which at critical times is absolutely necessary if the young men and women are to be saved from themselves. Just how this is to be accomplished is a problem calling for wise leadership and liberal-minded treatment. The difficulty of solution does not lessen its necessity, but rather increases it, for religion never was more essential than to-day as a means to prevent the development of the criminal.

The Home. The continual development of offenders emphasizes the necessity for improvement in home conditions and the relationship of parent and child. Changes in conditions affecting the home must be frankly recognized. The home which was characteristic of old New England no longer is possible in the cities of America. It has passed with the conditions which produced it. In its place we have the congested flat or tenement home which can hardly be called a home at all. The street takes the place of the front yard, and the door-step the place of the old-fashioned sitting-room and parlor—except where public meeting-halls, public buildings and public playgrounds offer some substitute. The average home—especially of the poor—in the modern city is little more than a place to sleep and to eat.

It is impossible, therefore, for parents to maintain that close relationship with their children which was always possible in old New England—where the children remained in the home and worked with the father and mother until fully grown, and often thereafter at the shop or in the factory which was conducted either in the home or in buildings connected with the home. Since the factory and the former household activities have been taken from the home

and built up in the factory districts of our modern cities as private industries, young men and women, and frequently their parents as well, spend most of their time in separate mills and factories and have but a brief period each day for companionship.

Where the home does not offer opportunities for recreation and leisure, the street claims the attention of most people when they are not occupied with their work. The problem, then, is so to develop life in the street as to overcome the destructive forces now prevailing there, and also to develop other places which may be substituted for the street. This means that the "cadet" and street-walker must be driven off the public thoroughfares, especially those frequented by children. It means also that the law must be so modified in certain respects that it will not serve as an actual inducement to lawbreaking.

Fathers and mothers must not be left behind at the home while their children roam and become more and more estranged from them. They must be encouraged to accompany the children to places of public amusement and recreation and to join in their pleasures. In this way the family unit may be preserved.

The disastrous results of the lack of parental supervision is nowhere more evident than in the field of truancy. The director of the Bureau of Attendance of the Department of Education of the city of New York stated in his first annual report that the mother, or some person other than the father, was found to be the guardian in 1,578 of a total of 6,862 cases of truancy. This led the director to state that truancy "is due in children of more tender years to the absence of that parental care and supervision which the

child receives under normal conditions."[1] At another point he says:

Noteworthy is the number of broken families where the father or mother is not a member of the family, 104 fathers and 47 mothers being dead; there are 17 families where the father had deserted, while those in which separation or divorce had occurred are not represented. Again, the lack of family supervision is most painfully evident from the fact that 507 mothers in a total of 641 families were away from the home and at work.[2]

The evil influence of congested conditions of living was partly demonstrated in this same report in the cases of children committed to the truant school, where

One hundred and twenty-three children came from families consisting of 5 or 6 persons, 7 or 8 persons, 9 or 10 persons, and more than 10 persons, who were living in 1, 2, and 3 rooms. If to this group be added 105 children of families consisting of 7 to more than 10 persons living in 4 rooms, there will be included 228 children in all. If all children of families living in 4 rooms, or less, be considered, 68 per cent. of the total (committed to schools) are included.[3]

Careful investigation by six visiting teachers employed by the Public Education Association in the city of New York during 1910 and 1911 revealed that parental indifference, ignorance, neglect, or poverty, was a prolific source of truancy. The director of the investigation, summarizing the results, says:

The report of the work of the visiting teachers supplementing the reports of attendance officers, indicates that

[1] First annual report of the Director of Attendance, Department of Education of the city of New York, for the year ending July 31, 1915, pp. 86, 87. [2] *Ibid*, p. 97. [3] *Ibid*, pp. 99–101.

the greater part of irregular attendance not due to sickness is directly related to parental indifference, ignorance, neglect, or poverty.

And further:

The most frequent and the most difficult treatment in improving home conditions, however, is the education of the parents. In many cases they must be led to see the necessity of securing for their children better living-quarters, improved diet, longer hours of sleep, or less home-work.[1]

Where parents and guardians are negligent and slothful some other agency must undertake to supply the necessary supervision, for society cannot continue a policy of drifting with the tides.

This supervision, however, should begin with the home, with the attempt to help fathers and mothers to do their duty. The parental responsibility usually falls heaviest upon the mother. Consequently, we must give particular attention to her. There are many different kinds of mothers. Since we are not concerned with the good mother, attention must obviously be directed toward the poor or inefficient mother. Of these we may enumerate at least the following types:

First, there is the parasitic mother, whose affection for her child is sadly mixed with a sort of greed for gold, which leads the mother to regard the child as a source of income. As a consequence she grows callous and next demands that her child should trudge along the railway track in order to pick up coal which may fall from the loaded coal-cars in the terminal yards. Where a whipping or a scolding is

[1] Appendix to the annual report of the Superintendent of Schools of the city of New York, for the year 1910-11.

administered if the child does not bring back the requisite amount of coal, it is but natural that the child should endeavor to avoid the same, even by pilfering the coal from the loaded cars. Many of these greedy mothers are not careful to ascertain where the coal comes from. They are satisfied that it is brought home. This type of mother seems perfectly willing to send her child out on the street to sell papers, to deliver messages in brothels and dens of vice, or to break coal in the coal-pockets in the coal-mines, or to look after the spindles in the textile mill, or to work at any sort of labor provided an income is secured thereby.

In the second place, there is the sentimental mother, whose impossible standards and whose lack of balance work havoc with parental discipline and with self-respect and with self-control. Not understanding actual conditions and not appreciating the child's outlook upon life, such a mother is often a positive curse to the child whom she strives so hard to protect.

In the third place, there is the immoral and careless mother whose drinking and illicit life are a constant reproach and positive danger to the morals of her child. These are the mothers who fling a couple of pennies from the window after a night's debauch, with the direction that the child is to buy a bun of the baker and hurry on to school and not bother any more. These are the mothers who complain if the daughter has not brought home sufficient money in the pay-envelope at the end of the week, and are especially complaining if the daughter is not as well dressed as a neighbor's daughter, who may not be particularly careful about the source of her income.

Then there is, in the fourth place, the sick mother,

who is not able to exercise parental authority, who must be cared for and protected by the children or by the neighbors, and as a consequence is unable to advise with her children concerning the fundamental issues of life which are presented to them through their association with young men and young women in the workaday world. Even the very care of the mother may be a heavy burden for little ones to carry.

In all cases the way out seems to be to improve home conditions as far as possible and to relieve the child wholly from parental restraint and control only when it is evident that progress and proper development are not otherwise possible, for the influence of the parent upon the child is of great consequence, for which there is seldom an effective substitute.

The School. Since the child is turned over to the public school for practically the whole day from the age of six until he is sixteen, the school must be depended upon as one of the principal agencies in the work of crime prevention. The early leaders of the movement to establish public education were convinced that if a person were well educated his moral status was assured. Experience has demonstrated the fallacy of this belief. Some of our cleverest and most resourceful offenders have been highly trained by our system of public education.

The school, like the church, has suffered by failure to adjust itself to new conditions of living which have called for constant changes in points of view and methods of work. Tradition has played a leading part in public education. It has handed down a curriculum and a course of study unsuited to the needs of a young man or woman in the present workaday world. The effort to provide a certain cultural

training which should not be contaminated by too close association with mundane things has given undue weight to literary training and to certain outward adornments of life and character which are not helpful to those turned out by the school and required to adjust themselves quickly to a new environment.

The so-called "three R's" have been insisted upon as a happy compromise between things too cultural and things not cultural enough. As a result the ordinary child has been left in a twilight zone which begins nowhere and ends nowhere. He has been thrown out into the world to make a living at the end of his school period, and forced to struggle along, striving to adjust himself to a world about which he knows little or nothing, while at the same time undertaking work entirely new to him.

These traditional courses of study and this insistence upon the three R's have served to deprive the immigrant child of his birthright. The American public school, by accepting English traditions and ignoring the background forces which have produced other great peoples, has deprived the children of other races of direct contact with those primary forces which have been so potent in developing the great characters of which each race is proud. Thus the school is continually blotting out important instrumentalities for improvement and social adjustment. What young man can achieve greatness and nobility of character if he is ashamed of his people's folklore, of his people's music, and of his people's literature and art?

Notwithstanding these weaknesses in the public school, we must develop it as a means of social control

and social evolution. Of the public school as a great socializing agency Prof. Paul Monroe says:

If I may speak for the largest group of professional men and women in our society, I would formulate this argument in terms of a plea of public education: a plea to the scientist, that he be interested not only in the new interpretation of phenomena, and in the new control of natural forces; but also in the dissemination of scientific knowledge and scientific methods of thought and procedure among the masses, and thus assist in the control of the greatest of all forces, public opinion and social will; to the economist, that he be interested not only in the investigation and interpretation of the economic phenomena of society, but also in that institution which touches more lives and those lives more powerfully than any other, save possibly the State itself, that it be not one of the most wasteful of institutions in the expenditure of human energy, and relatively one of the most inefficient in the expenditure of social wealth; to the historian, that he realize that the vital connection in the continuity of history is to be made in the transmission of the achievements and standards of the past to the coming generation; that the really vital thing in history is the *teaching of history* to the end that historic forces and institutions be generally understood and conserved; to the sociologist that he also give attention to the problems of public education, a social process now so influenced by the general principles which are fundamental to his science that it has become the chief means by which society seeks to accomplish a great variety of its purposes—to assist its helpless; to correct its delinquents; to improve its dependents; to equalize its opportunities; to preserve its resources; to lift up the lowly races; to amalgamate alien races; to preserve its hard-won wealth of culture; to perpetuate the results of its age-long struggle with nature; to render staple the triumphs over the limitations of human nature; the process by which it seeks to realize

in coming generations those ideals which are promulgated by the present as an aspiration or as a vision of possible attainment.[1]

The fundamental importance of education as a factor in modern life was emphasized by the final report of the Committee of the City Government of the city of New York, which employed leading experts in different fields of education to make a two years' survey of the work of the city's public schools. The committee report contained the following:

Any educational standards must be regarded at present as provisional and temporary. The public school is an instrument of social development. Its existence testifies to the fact that the present economic and social order is not final. If education were subordinated to the present economic order its influence would become the more deadly as it became more scientific and compelling. It is therefore clear that the secondary school should not aim to determine a child's vocation definitely, or to fit him for a certain calling. The various agencies of general society and higher education can do that. The elementary school should facilitate and simplify the process of economic selection, and should act as a transmitter between human supply and industrial demand. . . .

School work must take into consideration the nature of the child. Experimental psychology and investigation have clearly indicated that the child goes through many changes during his school life. These changes are affected by and in turn affect the child in school, in the home, and on the street. Every boy and every girl is plunged first into one influence and then another. Uniformity of treatment is impossible. The school is just beginning to recognize fully that the old-fashioned uniform course of study

[1] Publications of the American Sociological Society, vol. vii, pp. 64, 65.

has served only to confuse and impede the real success of school work. The play life and the home life of the child give vent to his individual and natural forces, but too frequently the school has truncated these forces at an early period. The successive bursts of instinct, interest and social tendency which characterize child life often die and are forgotten when adult life is reached. Thus it is the proper function of the school to act as an intermediary between the individual and society. Its primary duty is to inhibit the bad and develop the good, inherent traits of the child, in the light of their relation to the social order.[1]

The committee, in an outline of the proper working aims of the modern school, said:

The school should give to its pupils a mastery of method. The basis of this method is proper co-ordination between the child's mind and body; in a word, rational self-control. The school can assist in such co-ordination by the inculcation of purpose in the child, by teaching him to appraise the different values of things, by assisting him in organizing his ideas, and, finally, by teaching him to forge ahead and exercise his initiative. But the desired mastery of method can be most easily assisted by the school through activities —constructive team-working activities related in a directly serviceable way to community needs and to the furnishing of an immediate economic stimulus to the child. A curriculum aimed at the teaching of method would therefore be built upon (*a*) productive work, (*b*) participation in economic distribution and consumption, (*c*) citizenship effort, (*d*) romantic interest embodied in æsthetic expression and group life, and (*e*) natural science, both as a subject-matter and as a technique related to the other subjects.

[1] Final report, Committee on School Inquiry, Board of Estimate and Apportionment, city of New York, pp. 50 and 52. This epitome and the outline which follows were prepared for the committee by the author and Mr. John Collier, director of the National Training School for Community Center Workers, New York.

If the work is made concrete and direct enough it will be simple and attractive. It is present-day abstraction that makes school work difficult and complex.

The school should do its part to induct the child into life about him instead of divorcing him from it. This means not merely or primarily relationships within the school, but rather relationships with the general environment, whereby the successive psychic and psychological stages of child life would be progressively bound up with the general life toward which the child moves.

The school should induct the child into industrial and economic life far enough so that his education will serve as a vocational aid. . . . As a separate responsibility of the school this duty does not become separate and permanent until toward the end of the high-school course. It should always be a part of the duties of the school . . . to keep the facts of industrial and economic life prominent, and they will have their place as a matter of course, if the work of the school is made sufficiently concrete.

The school should give attention to physical education and correction of physical defects. . . . The correlation of school work with other public work such as that of the department of health, public charities, children's courts, and public recreation, if properly carried out, makes provision for the checking up of knowledge gained at school and the consequent moral, mental, and physical readjustment of the individual to his environment. . . .

Every child should be brought to realize the value of his leisure time and how to use it to the best advantage. If he is taught to make use of that leisure along with his family group, the yawning chasm between the city parent and the city child will be successfully bridged over and moral shipwreck will be prevented.[1]

Occasionally a skeptical person asks what direct relation exists between the lack of education and the

[1] Final report, Op. Cit., pp. 51, 52.

development of offenders. The experienced and well-informed man appreciates that there is a fundamental connection. Research has not extended far enough to bare the direct connection in its entirety, but there is a chain of circumstances and facts which points to the truth of this statement. In the first place, very few inmates of correctional institutions have an education which has extended beyond the fifth grade of the public school. In the second place, very few of them have had a practical training which enables them to take up work in the skilled trades. In the third place, when times are prosperous and there is a great deal of rough work to be done, there is a striking decrease in the prison population; whereas in hard times, with not much rough work to be done, there is a great increase in the prison population. For example, in 1914, when times were hard, the average daily census of all institutions of the Department of Correction of the city of New York was 6,259. In 1915, it was 5,613, and in the half-year ended June 30, 1916, it was about 4,900. In the fourth place, experienced probation and parole officers and social workers agree that there is a close connection between lack of training and "blind alley" occupations, on the one hand, and vagrancy, misdemeanors, and more serious offenses, on the other hand.[1]

The young vagrant or the young offender is usually a person who has not been trained; frequently he is not even able to concentrate his attention on a given subject for any length of time. In 1914, of the 99,376 persons committed to the city and district prisons of the Department of Correction of the city of New

[1] See Seager, Henry R., *Social Insurance, A Problem of Social Reform*, pp. 103–107.

York, 3,405 were unable to read or write. In 1915, of 86,625 persons so committed, 1,714 were not able to read or write.

Judging by experience gained in correctional institutions, the chief problem in public education is to prevent the great majority of children dropping out of school at the end of the fifth or sixth grade. Also, how is it possible to provide further educational training for those whose economic conditions will not permit continuance in the regular day school?

If we assume, as we are justified in doing, that ability to work at other than the roughest kind of unskilled labor will help to prevent the development of offenders, it is of first importance to provide training of the right sort—especially training of the kind that will keep out of the blind-alley occupations boys and girls turned out of the school. The Vocation Bureau of the city of Cincinnati has been studying the progress of those who have continued in school and those who have gone out into the world as soon as their working-papers were secured. The aim of this study was to establish whether the school or the outside world is better fitted to develop the individual along right lines. Seven hundred and fifty fourteen-year-old children dropping out of school to go to work were given different mental tests, and after one year's experience at work the same children were given the same tests again. These were compared with children remaining in school. Those who remained in school made the better showing. While the results of these tests are not conclusive, they agree with the conclusion of those who have had experience. The director of this investigation, Helen Thompson Woolley, stated: "We found that the

children who had completed only the fifth or sixth grade changed positions more frequently and were idle more of the time than the children who had completed the eighth grade."

Interesting light upon this question of adequate training has been shed by a comparison of wages earned by children over sixteen years of age who have been given a two years' course in a technical or trade school, and the wages of children who have gone to work without such training. In 1908 the Henry Street Settlement established a definite system of scholarships for children from fourteen to sixteen. Says Miss Wald, founder of the system:

> Careful inquiry is made by the secretary to discover natural inclinations or aptitudes, and these are used as guides in determining the character of instruction to be given. Three dollars a week—somewhat less than the sum the children might have been earning—is given weekly for two years, during which time they are under continual supervision, at home, at school, and through regular visits to the settlement. They are looked after physically, provided with occasional recreation, and, in summer-time, whenever possible, a vacation in the country. The committee keeps in close touch with the educational agencies throughout the city, gathers knowledge of the trades that give opportunity for advancement, and, to aid teachers, settlement workers, parents, and children, publishes from time to time a directory of vocational resources in the city.[1]

Miss Wald presents the facts with respect to these children and an equal number of children who had secured work through the Alliance Employment Bureau. Those who had secured work through this bureau, however, had not the advantage of this two

[1] Wald, Lilian D., *The House of Henry Street.* Henry Holt & Co.

years' course of training. The striking and illuminating facts are presented in the following table:

Comparison of Weekly Wages of Seventy-two Children Who Have Worked Four Years Without Previous Training, from the Record of the Alliance Employment Bureau, and of Scholarship Children Who Had Two Years' Vocational Training.

Amount of Weekly Wages	At end of 6 months or less		At end of 1 year		At end of 2 years	
	Employment Bureau	Scholarship	Employment Bureau	Scholarship	Employment Bureau	Scholarship
Minimum	$ 3.00	$ 4.00	$ 3.00	$ 6.00	$ 3.00	$ 7.00
Maximum	12.00	13.00	12.00	14.00	14.00	23.00
Average..	5.48	6.75	6.66	9.22	7.51	10.69

Amount of Weekly Wages	At end of 3 years		At end of 4 years	
	Employment Bureau	Scholarship	Employment Bureau	Scholarship
Minimum	$5.00	$ 8.00	$ 6.00	$ 12.00
Maximum	20.00	25.00	15.00	28.00
Average..	8.23	13.31	9.23	20.30

Children do not leave school for economic reasons so frequently as many suppose. The schools often fail to hold them after it is possible to secure working-papers because work appears more attractive to the young boy or girl. The problem, then, is how to maintain their interest.

The system of education worked out in some of the better schools of our larger cities and in some of our better reformatory institutions and industrial

schools—and in Gary, Indiana, in particular—does this in part, at least. It is accomplished by building the system of education around every-day activities and around community living in such a way as to emphasize the direct connection at all points between the educational work and the better aspects of life outside the public school. In such a school the plan is to build upon the child himself—upon his home life, and upon his inherited traditions, and to help him to adjust himself in his environment in such a way as to make it possible for him to forge ahead in the outside world instead of being dragged down by the evil and transitory forces which he encounters.

The plan of providing educational work and training for those who are required by economic necessity to leave the day school and earn their living has been well worked out by Dean Herman Schneider of the Engineering School of the University of Cincinnati. This is known as a co-operative plan. Students are allowed to do part-time work in the school and part-time work in the shop. Two students register for the same course in school and hire out to work at the same lathes in a foundry or machine shop. Then they alternate—one serving two weeks in the machine shop, while the other spends two weeks in school studying mechanical drawing or machine design. In this way the shop is able to secure a trained staff of expert workmen, while the young men are able to secure an education which is intensely practical and lays equal emphasis upon theoretical and practical training, without divorcing one from the other.

Such a system is capable of almost infinite development and may be depended upon to help in preventing the growth of armies of unskilled young men who

are unfit to earn enough to enable them to live in accordance with modern standards. The demand for clothes and other essentials leads many a young man to seek money in what appears to be an easy way—namely, by theft, by gambling, or by a form of cheating, the inevitable result of which is his downfall and his transfer to the army of misfits and parasites.

Since the problem of education is one of training and adjustment, the school must be able at all times to ascertain whether the school work is adapted to meet a student's needs and whether he is making satisfactory progress in definite directions. This is not easy in the present-day crowded school, with its large classes. Mental tests offer a partial solution of this difficult problem; through these the natural aptitude and ability of each child may be ascertained at any time. To accomplish this we should extend the work already carried on by the Schmidlapp Bureau in Cincinnati, and that carried on recently under the direction of Professor Hayes in the public schools of the city of New York. The latter work was undertaken to establish the normal ability of the average child in each of the grades, so that a standard might be set up whereby teachers and supervisors could ascertain whether each child was making proper progress in work suited to his needs.

Mr. S. A. Courtis, of Detroit, Michigan, has developed a series of tests in arithmetic by which the teacher is able to determine the ability of a child in rudimentary mathematics and the degree of speed and proficiency in mental calculations. These tests were applied by Mr. Courtis himself to some forty thousand children in the public schools of the city of New York.

Through the courtesy of Mr. John Wanamaker similar tests were given to the employees of his department store who were doing work in the school established there. The results indicate that by the use of these and other tests it would be possible to establish definitely the degree of efficiency required in the workaday world, and then to ascertain from time to time whether the children in school were developing ability which would allow them to approach or exceed this standard.

The aim should be to turn out of school young men and young women who are self-respecting and capable of becoming at once self-supporting, instead of industrial and social misfits who drift from position to position, from blind-alley job to blind-alley job, finally swelling the army of vagrants, incompetents, ne'er-do-wells, and violators of the law.

The modern school must serve not only as the principal means of training the individual and adjusting him to his environments, of encouraging young people to strive with the hope of success, but must help them as well to avoid temptations which surround them when they are not engaged with their work and to make proper use of their leisure.

Another factor to be considered in securing school attendance is that of compulsion. In most of our cities compulsory school laws require children of school age to be in school a certain number of days per year. The efficiency of agencies established to enforce this law is measured too frequently by the number of persons apprehended as truants, while little or no attention is given to the problem of preventing truancy at its inception—visible in chronic or frequent absence. Absence, when often repeated,

leads to a child's failure of promotion and to loss of interest in his school work.

The New York City Superintendent of Schools in his annual report for the year 1912 states:

> The child attending 1–70 days has 2 to 3½ times as many chances for promotion as he has for non-promotion; if attending 71–80 days, 5 times as many; for a child attending 81–90 days, the probability of promotion is 8 to 9 times as great as the probability of non-promotion; while for a child attending 91–99 days it is from 14 to 15 times as probable that he will be advanced as that he will not be.

Dr. Frank P. Bachman, former Assistant Superintendent of Schools in Cleveland, Ohio, who was employed by the School Inquiry Committee of the city of New York to investigate the causes of retardation and non-promotion of pupils, says:

> About 90,000 children, it will be seen, were absent during this half year for at least one school month, 30,000 of these having been absent over two full school months. Yet only 6,579 children were reported by attendance officers as having been truants for five days or more during the entire year. . . .
>
> Nearly one-half of the pupils wno failed promotion were absent over two-fifths of the school term, and 70 per cent. were absent from school at least 30 days during the half year. These data, furthermore, take account only of the pupils who failed of promotion on June 30th, the 70,000 children who left school during the year being disregarded.[1]

Examination of truants by doctors and experts on child hygiene has shown that truants are in bad

[1] Bachman, F. P., Report on Promotion, Non-promotion and Part Time, contained in the final report of the Committee on School Inquiry, Board of Estimate and Apportionment, city of New York, vol. i.

physical condition. Dr. I. H. Goldberger has conducted such examinations in the Department of Educational Hygiene of the city of New York. His conclusions are presented in the following language:

> My experience with blood pressure in truants leads me to believe that they have higher blood pressure than one usually finds in otherwise normal children of corresponding age. These findings have occurred with such regularity that I am fairly well convinced that high blood pressure may be regarded as a physical characteristic of truants. I am of the opinion that this condition is due to and the result of over-exposure (sleeping on docks, on roofs, in cellars, in hallways); irregularity in habits (of eating, sleeping, bowel function); excessive motor irritability (fear of arrest by attendance officers, police, fear of detection in the act of stealing); excessive masturbation and sexual intercourse at an early age; cigarette-smoking, the use of alcohol, and the use of narcotics. . . .
>
> It is quite evidentthat these truants are in bad physical condition; that they present as a group a greater percentage of individual defects than a mixed group of children.[1]

The results obtained are quite similar to those obtained in similar investigations and examinations of young men committed to industrial schools and reformatories.

Recreation and Play. There is a direct connection between play and crime, as defined by the statute law and ordinances. Under the present laws and police regulations of the city of New York it may be an offense to play marbles in the street, as it may be an offense for children to skip a rope on the sidewalk. Mr. Edward M. Barrows, formerly a field secretary of the National Child Labor Committee,

[1] Report, Bureau of Attendance, Op. Cit., p. 137.

lived in and studied conditions for three years in a crowded section of the city of New York popularly known as Hell's Kitchen. As a result of his study of conditions he gives it as his opinion that eighty per cent. of the juvenile offenses for which children are brought to the Children's Court consist of rational play which is not essentially criminal.

The eighteenth annual report of the People's Institute of the city of New York contains the following statement:

> Largely on account of restricted play space, petty gambling, such as crap-shooting and card-playing for small gains in the rear of cigar and candy stores in the poorer sections of the city, has become startlingly prevalent. City children are no more naturally depraved than children brought up in the country. They are simply forced to live pinched lives.[1]

It is entirely true that some form of play is the chief cause of the youngster's trouble in the first instance. His running foul of the law continually in order to play and to give vent to his natural spirits breeds in the child a contempt of the law and a certain contempt of many of those—including the police—who are sworn to uphold it. Instead of the law and its agents breeding a respect for lawful authority through the operation of the law itself, the opposite result is often obtained. How a more sympathetic and enlightened attitude on the part of the police may reduce the number of juvenile delinquents is strikingly illustrated by the reduction of the number of children brought into the Children's Courts in the year 1916 in the borough of Manhattan. The chil-

[1] P. 40.

dren have been made to feel that the policeman is their friend and is sympathetic with them in their desire for legitimate play. This attitude of the police has apparently changed the children's attitude toward the law-enforcing officers.

The very normal desires of the children may lead them into trouble. On this point Mr. Barrows says:

> The child criminal, though he is a nuisance on the street, is primarily a case needing our help for its own sake. . . . No matter what the legal nomenclature for the child's act, whether burglarly, destruction of property, fighting, or loitering, we find on analyzing these typical cases that the child was either:
>
> 1. Trying to play; or
> 2. Trying to get money to purchase what he needed for play or other purposes; or,
> 3. Trying to avenge himself for some real or fancied wrong; or,
> 4. Responding to the impulse of a weak or abnormal mind.

This classification is of material importance, inasmuch as the children who commit crime out of revenge or in order to help meet family expenses, cannot be helped merely through playgrounds or play leadership, and on the other hand, if the predominant motive is a true play motive the problem is really a recreation problem.

The acts which lead children to arrest are nearly always games. They are (1) games which are against the law only because they are played on the street, and (2) games which through their nature involve an infraction of the penal code. In the first class we find baseball, football, jackstones, singing, and marbles. In the second we find stealing, fighting, destruction of property, and similar violations of the code of social procedure. But the point which is overlooked by the law, and in a large measure by the law-enforcer, is that both these forms of play are to the

child merely or mainly play, representing a perfectly normal childish instinct which has, in many of the cases of arrest, been distorted through a morbid street environment.[1]

Children running foul of the law naturally band together not only because of their mutual instincts, but as a means of protection. Mr. Barrows's investigations of the gang problem have been most fundamental and significant. After pointing out how the law demoralizes the youngsters who indulge in baseball, for example, he indicates how play is at the bottom of gang stealing and gang depredations.

Just as we do not analyze the child's motive for playing baseball on the streets, though we arrest him for it, so we do not recognize the motives of the child thief when, in an elaborate and traditional organized game, he steals groceries, baseballs, door-knobs, or street-lamps. . . .

Gang stealing in many parts of New York has come to have a definite form of organization. A band of boys, from three to six or seven in number, will go from tenement to tenement on Saturday evenings, taking orders from the housewives for fruits, vegetables, groceries, light hardware, and clothing, just as though they were delivery clerks. When they think they have a sufficient number of orders, they go out on the street and, by a series of organized raids, secure the goods which the housewives have ordered. These goods are sold on a regularly established scale of prices, which in most parts of the city is arbitrary, with no relation to the market value of the stolen articles. . . .

This is a regularly organized form of amusement, which has existed to the writer's personal knowledge for a decade or more on the Middle West Side. As far as the boys themselves are concerned, it is a game and nothing more. The crimes committed are incidental to the game. The elements

[1] Barrows, Edward M., and Collier, John, *The City Where Crime Is Play*, pp. 16, 17.

the boys are striving for are the dramatic adventure in obtaining stolen goods, the excitement of gambling, which to them is no crime, and the physical joys of soda-water, the cigarettes, motion-picture shows, etc., which follow the game. These boys start out to seek adventure, excitement, and a "treat." Unguided and irresponsible, and with a tradition of lawlessness based upon the hostile indifference of their elders, they have gone after their ends without regard to consequences.[1]

Misinformed and short-sighted persons have advocated the breaking up of boys' gangs on the ground that the gangs are always bad. This is the counsel of folly. First, because it is naturally impossible to break up boys' gangs; and in the second place, if it were possible it would deprive society of its principal means of combating the growth of anti-social tendencies. Is it necessary again to point out to these well-meaning but short-sighted individuals that weaker animals club together and overcome the more fierce and powerful animals, and that the clubbing together modifies the character and instincts of the animals themselves in such a way as to decrease their ferocity and increase their better traits? In like manner the boys' gang may be utilized as an agency for social growth and development of the individual, provided the energies of the gang are directed in proper channels. These gangs drift into acts of criminality in order to have a good time, because there is nothing of instructive character made available to them. Where constructive work and play are presented the gang will usually turn from the old paths to the new with great interest and enthusiasm. The successful community activities carried on in well-organized park systems of

[1] Barrows, Edward M., and Collier, John, Op. Cit., pp. 19, 20

our large cities and in the school buildings of Chicago and New York, and the successful work of the George Junior Republic and other industrial schools and reformatories, are clear cases in point.

The modern city must develop plans for utilizing the leisure time of its citizens in recreation and education. Instead of allowing the children to wander away from the home and play in the streets without protection, to enter questionable places in search of amusement, there should be intelligent direction of activities and opportunities so that the natural instinct of the child and of the growing population generally for wholesome pastime could be gratified.

Furthermore, since the modern home does not offer the facilities of the old New England home, provision should be made for recreation and social activities which would take the parents with the children out of the home and into the public school buildings, public parks, and playgrounds, and other places of amusement as family groups, instead of as individuals. Community center and playground development has already pointed the way for organizing community orchestras, community dramatic leagues and societies, community pageants, community games, and community education, in such a way as to elicit the combined interest and enthusiasm of all the families in a given community. This development seems to herald the breaking down of the wall between education and recreation in such a way that our so-called recreational activities may be worked into continuation classes of the public school system where the motion picture and the lantern slide will be substituted for the printed page.

The work of the Free Library Commission in Wis-

consin shows that the motion picture depicting the life of Cæsar, Hannibal, and other great figures of history may serve to quadruple the reading of such books as *Cæsar's Gallic War*, *Cæsar's Orations*, *Livy's History*, *Xenophon's Anabasis*, the Bible, and Shakespeare's plays.

What a contrast is found between families attending these lectures and other entertainments and gangs of young men hanging around street corners ogling women, tripping drunken men and rifling their pockets, breaking windows and destroying property generally, only to find themselves arrested, convicted, and sent to a workhouse or prison for a short time—then released, only to be met by their old associates and persuaded to return to the same old habits, which can lead only to more serious trouble and continued degeneration of the faculties.

Health and Sanitation. The direct connection between poor health and criminality is not easy to trace. The fact that most offenders committed to correctional institutions are in poor physical condition is well known. It is also well known that a large percentage of these defects could have been prevented if the child had been taken in hand at an early stage. It is safe, therefore, to assume that the correction of evil effects flowing from bad physical conditions might have helped to prevent the defective child developing into a delinquent child. The very high percentage of seriously defective persons found among vagrants and petty frequent offenders seems to indicate that there is a clear connection between defectiveness and delinquency; and while it is not to be assumed that a mentally defective child will necessarily become a delinquent child, the defectiveness establishes the

possibility that, if the child is allowed to drift and is not taken in hand, treated for his defectiveness and trained to earn a decent living, he will become delinquent. It follows that the prevention and correction of mental and physical defects should hold a leading place in any crime-prevention program. The problem is, first, where should a beginning be made, and, second, what should be done?

Surprising results are becoming visible from child-welfare work, which begins at the very beginning—that is, with the mother before the child is born. Even in families where there are already two or three weak and emaciated children, experience has demonstrated that a reliable and skilful nurse and physician, by instructing the mother how to take care of herself and of her child during the first year or two of its life, may be able to assist her in rearing a little one whose health and all-round morality are indeed striking as contrasted with the older children of the same family and with children of the same age in the same neighborhood where such advice and help have not been given; and still more marked will be the contrast where this advice has continued and the child is properly fed, its teeth, eyes, ears, and throat properly cared for, and its environment improved.

Children affected with incipient tuberculosis who are sent to the preventorium or to the better tuberculosis sanatoria improve so greatly in a very short time as to be hardly recognizable by those who were accustomed to see them before they were given treatment and allowed to live in the open air of the country.

Many have held that such care of children is impossible under modern conditions, because the service must be furnished at community expense rather than at the expense of the individual. This is not entirely true, as sums of money are paid out annually by hosts of breadwinners to meet the gravest emergencies which may arise. In many families industrial insurance has been taken out to cover such emergencies. A well-planned scheme of social insurance, however, is the best reliance—especially where the people at large are forced to contribute a part of their earnings to a fund, as in Germany.

The organization of communities is another means of generalizing and improving the medical service which may be brought within the reach of poor people. The medical nursing service of the ordinary city is rather poorly organized, so that it is not possible even for the better community practitioner to possess or secure the use of proper apparatus for diagnosis and treatment. If the doctors and nurses of the community were well organized it would be possible not only for a community to secure the services of diagnosticians, but to develop treatment for individuals in their homes of a very much higher standard than that now furnished. Isolated experiments in this country indicate the soundness of this proposition; but, of course, they have not been carried far enough to suggest in what way the organization should be developed. Such organization as has been effected in Germany, in England, and in other countries in Europe by the registration of physicians permitted to practise in accordance with the social-insurance laws shows that the medical service performed by a number of physicians in a given locality may be greatly

improved by this method and by a certain degree of standardization in practice and in payment.[1]

The need for treatment to prevent the development of physical defects which incapacitate for work men committed to prison is clearly shown by all careful studies of such persons. In the case of the city of New York, studies conducted during 1914 and 1915 indicate that at least 15 per cent. of the average number held in the correctional institutions at one time are in need of hospital or hospital-ward treatment. The direct connection between the treatment and cure of physical and mental defects and the ability of the inmate upon release to secure work—which is usually essential to his rehabilitation—is too obvious to demand comment.

Extended study is not necessary to demonstrate that a reduction of physical and mental defects in the community would reduce considerably the number of vagrants and chronic minor offenders who crowd our charitable and correctional institutions.

[1] See "Brief for Health Insurance" compiled by the American Association for Labor Legislation, published by the Princeton University Press, Princeton, N. J., June, 1916.

II

TENDENCIES OF POLICE SUPERVISION

It is difficult to draw a line between the direct and indirect forces which are inimical to the development of offenders. In many cases the school, the home, or the church may be a direct force. In other cases these agencies may be responsible for training and temperament which cause the individual to react properly and with due respect for the law and its representatives, when accused, whether justly or unjustly. A man's attitude toward the law and the police may be responsible for saving him from a criminal career, while back of this the influence of the church or the home or the school may have been directly responsible for his attitude. Speaking generally, we must regard the Police Department as a positive force in crime prevention.

The police are in more intimate contact with the people, perhaps, than any other agency of government. To many the Police Department is, to all intents and purposes, the city government; therefore the incorruptibility of the police is of great importance. Because of their intimate knowledge of moral and social conditions we must utilize the police for effective crime-prevention work. The occasional weaknesses in

the work of the police have blinded many good citizens to their fine fundamental work. The chief difficulty lies in the fact that responsibilities are imposed upon them in American cities which the police in European cities are not called upon to assume. This is especially true in the field of morals control.

Morals-control Work Weakens Police Morale. As a police problem, law enforcement in American cities differs considerably from what it is in cities of other countries. Mr. Raymond B. Fosdick says:

> The European police are not called upon to enforce standards of conduct which do not meet with general public approval. There is little attempt to make a particular code of behavior the subject of general criminal legislation. The high moral standards of a few people are not the legal requirements of the state. . . . For example, the public houses of London, within a four-mile radius of Charing Cross, are allowed to open on Sundays, by Act of Parliament, between the hours of 1 and 3 P.M., and 6 and 11 P.M. This particular provision, which from personal investigation I know to be generally enforced, meets with the approval of London citizens. It is a fair approximation to the tastes and standards of the majority. I asked a high official at Scotland Yard what would be the effect on the Metropolitan police force if Parliament passed a law prohibiting the sale of liquor on Sunday. "It would mean the demoralization of the force," he replied. "We cannot guarantee the integrity of the police against the vicious influences arising from unenforceable laws." In Berlin . . . a similar question propounded to a police official of high rank was greeted with a stare of amazement. "Preposterous!" he exclaimed. "The entire German army could not enforce such a regulation." "It would be idle to pass laws curbing the gambling instincts of our people," a Swiss official told me, "because there is no public demand for

such regulation. It could not be enforced." The point is that a police department cannot be used to enforce standards of conduct which are widely disapproved, or to regulate the private habits of the population contrary to its wishes. Attempts to enforce laws of this type, which are not representative of public opinion, invariably breed corruption.

Indeed, according to the testimony of police officials all over Europe, it is not enough that laws relating to public morality shall have the support of some elements of the community. They must have the substantial support of the entire community. "The thing that we dread," said a Scotland Yard official, "is the passage of laws making a crime of actions which a great many people regard as innocent." . . . The functions of the police are not confused with those of the Church, the school, and other organizations and influences by which civilization is advanced. M. Lepine's definition of police exactly expresses the European point of view: "An organized body of officers whose primary duties are the preservation of order, the security of the person, and the safety of property." [1]

In American cities the police are required to enforce laws and ordinances dealing with gambling, with the sale and consumption of food and of intoxicating liquors, and with certain drugs and with a multitude of other personal and intimate activities of daily life which are not under police control in the larger cities of Europe. While there has been a public demand of sufficient strength to secure the enactment of laws dealing with these subjects, there is abundant reason to believe that men and women have taken a public position urging such enactment, while in private they have honored these laws more in the breach than in the

[1] Fosdick, Raymond B., *European Police Systems*, pp. 379–382. The Century Company, New York, 1915.

observance. While moralists may justly hold that we are to judge individuals by their public acts and public expressions, the fact remains that a considerable minority of our citizens do not seriously object to breaches of laws dealing with public morals, although they are horrified at other lawbreaking where the penalty is not one whit more severe than for violating the statutes covering public morals. This attitude makes consistent law enforcement extremely difficult, breeding in the police officer a certain arbitrariness and placing upon him direct responsibility for deciding what enactments to enforce at certain times, and what enactments not to enforce at certain other times; and also breeding in the people affected a certain easy contempt for law and authority.

The law has stipulated that there be no unnecessary labor performed on Sunday, while a large portion of our city population believe that Saturday should be observed as Sunday, or the Sabbath, and that it is not sinful to work on Sunday. Large groups of people believe that intoxicating liquors should not be used. Other large groups and their sires and grandsires have been accustomed to the serving of light wines and light beers with the family meal. It is frequently difficult for persons with these traditions to appreciate the point of view of those who are willing to concede personal liberty in the use of wines and liquors on six days of the week, but who urge prohibition of sale and consumption of liquors on the day commonly called Sunday.

Laws have been passed forbidding what is commonly called gambling, but these laws have not been regarded as applying to raffles conducted at church fairs and other social gatherings, and to the playing of

poker and other card games "in the castle" of those living in uncongested neighborhoods. Other laws forbid indecent exposure, nuisances, and the like, and these laws have been regarded by some as not applicable to certain exposures in public which they view as delicate, rhythmical or artistic in form.

There is a series of laws or ordinances governing conditions under which pickles, candy, fruit, vegetables, clothing, etc., may be offered for sale—laws that may be enforced to the letter in sections of the city inhabited by those who are able to purchase more expensive articles, but not always regarded as strictly applicable to sections inhabited by the poor or by those of slender means.

Some view the enactments having to do with vice control as distinctly one-sided, since they apply as a rule to the woman in the case, but not to the man.

If the police do not take account of differences of opinion as to what laws are to be enforced in different sections of the city, this responsibility is thrown upon the courts. People object strenuously to court action because it involves so much publicity or notoriety. Consequently a person accused of violation of enactments in the field of public morals has a direct interest in securing action under circumstances which do not bring notoriety. The ordinary patrolman and the ordinary plain-clothes man are frequently importuned to usurp the functions of the inferior courts and to decide whether the individual is to be held for court action. When there is a great deal of opposition to strict enforcement of laws and ordinances relating to public morals, the police officer may be persuaded to overlook what, from a legal point of view, may be a serious breach of law. And it is not a far cry from

failure to enforce the law through pity or "good fellowship" to failure upon payment of money or upon substantial promises. This condition gives rise to the cynical declaration, whether justifiable or not, that "what is a poor man's crime is a rich man's privilege."

Private Opposition to Morals Control. Private opposition to morals control manifests itself in many different ways. The administrations of Mayor Low and Mayor Mitchel in the city of New York developed striking examples of this. Mayor Low was enthusiastically supported by the people of what is known as the East Side when he was a candidate the first time. During his administration action was taken against push-cart peddlers who were operating either without a license or under conditions forbidden by ordinance and against the sale of food and liquors under certain conditions on Sunday. No one questioned that laws and ordinances were being violated. After repeated warnings, summonses or warrants were issued which brought the offenders into court—whereupon opponents of the Low administration undertook to furnish bail or otherwise to befriend those who they alleged had been deserted by their "high-brow" friend. When Mayor Low was a candidate for re-election some of the workers approached these same parties with a request for support, only to be met with statements like this: "I supported Low when he ran for Mayor before. He is a good man. I cannot support him this time because he is laboring under the delusion that good citizens should be in jail." These men realized that the Mayor was perfectly right from the standpoint of law enforcement; but in their opinion he was wrong from the stand-

point of public morals, because they held themselves to be very good citizens despite the fact that they violated enactments which they did not consider of serious importance.

During the Mitchel administration the Commissioner of Licenses stated that he would not grant a license to a peddler to handle and to sell food until such peddler could furnish a certificate, signed by the Health Commissioner or his designated representative, stating that the applicant was free from communicable disease. He arranged with the Police Commissioner also for the granting of licenses to push-cart peddlers at a nominal sum of two dollars per license. The Police Commissioner instructed the police to inform unlicensed peddlers where they could secure licenses, and only as a last resort to issue summonses to court for non-license; the summons to be for a time of day which would obviate the necessity of long detention in court.

The result of the requirement as to health certificate was that many persons were examined, treated, and cured of incipient diseases which otherwise would not have been discovered, and then were given licenses to operate. Opposition did not develop until the next political campaign for the election of assemblyman. The opponent of the then assemblyman—who was a supporter of the Mitchel administration—alleged that the assemblyman should be defeated because he was responsible for what the opponent termed a ridiculous order, requiring applicants for push-carts to go up to the Health Department and have a man stick a pin in their ears and then smear some blood on a glass which he carried away with him. This seemed to be one of the strongest issues of the cam-

paign, which resulted in the defeat, by a small margin of votes, of the assemblyman thus accused. The treatment afforded at such expense, and the protection given to purchasers of food, meant nothing to many voters in contrast to what seemed to them the ridiculous procedure of taking blood samples in order to make a blood analysis.

I believe the Police Department should have the responsibility, in conjunction with the courts, of enforcing all laws having to do with public morals, as well as those dealing with the prevention of more serious crimes; because in my opinion experience has amply demonstrated that division of responsibility is much more detrimental to proper control of the enforcement agencies than are abuses which creep into enforcement of laws having to do with serious crimes, where such abuses are traceable to laxity occasioned by public indifference toward public-morals regulation.

The point to be considered is that people do expect the police to "look the other way" or to fail to enforce certain enactments, and that this has a tendency to demoralize law enforcement in general—which in turn leads many people to regard the law too lightly. There can be little doubt that many develop into serious offenders because of an original attitude of carelessness toward laws and ordinances which with many good people are "more honored in the breach than in the observance."

Penal Law Often Unfair to Children. The police officer is called upon to enforce against children provisions of the penal law and of ordinances in cases where he knows well that the children had no intention of committing crime.

Our penal law has made the attempt to discriminate between children and others on the ground of responsibility or lack of responsibility. Only the policeman and the Children's Court judge, however, realize how difficult it is to apply many provisions of the code in the case of children. It has not been possible for the law to keep pace with sound public opinion in this field. Hence the police are called upon to exercise clear judgment in handling breaches of the law wherever it applies to children; and as a result a veritable technique has been developed in this direction. Take, for example, the question of playing ball upon the public streets. The procedure of the Police Department of the city of New York is substantially as follows:

No action is to be taken against children playing ball in public streets, or any public place, except upon complaint of neighbors, bystanders, or passers-by, although, of course, the police officer is expected to issue warnings wherever he observes excessive abuses of the ball-playing privilege. Then, if a definite complaint is lodged, the officer is to bring the individual—not under arrest, but under a summons—to the police-station house, where a lieutenant is not allowed to place him in the detention cells in the back of the police station, but is directed to ascertain the names and residence of parents or guardians, and to summon them to the police station, where an endeavor is made to secure a promise that they will see that the breach does not occur again. If the parents assume such responsibility, the juvenile offender is allowed to go his way. If they refuse to assume such responsibility, the lieutenant may issue a summons requiring the parents and the offender to appear next day in court to answer before a magistrate; but in these cases the lad is usually allowed to go home with his parents and thus escape the humility

of incarceration in a station-house or prison cell. Then, if action by the magistrate fails to bring the desired results, an arrest in a particular case is made if breaches continue and more drastic action may be taken.

There is little doubt that, if the law were literally enforced against juveniles, four or five times as many would be arrested each year in our large cities as are arrested under existing conditions. Here is a procedure allowing the issue of summons in place of warrants, which if properly carried out may be regarded as in the public interest; although under the ordinances forbidding ball-playing, drastic action might be taken. Here is a field where discretion vested in the police may work effectively toward preventing the development of offenders among children.

It is not to be forgotten that many a boy is regarded as a hero by his chums and associates when he is arrested and brought to a detention prison; that he is glorified by arraignment before a judge and by having the eyes of the press and the public turned upon him. Often this is proof positive to his associates of his strength of character and of his bravado, so that the machinery of the law frequently defeats the purpose for which it is placed in motion. None realizes this better than does the average policeman.

What, then, are we to say about public-morals control and the vesting of discretion in the police officer? How are abuses to be prevented? The remedy lies partly in legislation and partly in sound administration. So far as the problem is one of administration, prevention of the development of offenders through morals control and control of play activities demands the establishment of more active personal control over the work of the individual patrolman and

plain-clothes man by the officer responsible to the people for the administration of the Police Department. By the effective supervision of individual work the department may be made an extensive, powerful, preventive agency.

The "Stool-pigeon" System a Necessary Evil. The "stool-pigeon" is a necessary evil where there is not a sufficient appropriation to make possible the employment of an adequate number of detectives. As a rule, stool-pigeons are not nearly so efficient as are clever detectives who could be assigned to pose as members of gangs of thieves and of other criminals. The average detectives must now depend to a certain extent upon stool-pigeons or informers, who must be treated with marked consideration in order to secure their co-operation in running down violators of the law. Favors are often extended to persons of this type where the law authorizes the court to exercise discretion in rewarding individuals who have rendered service to the people. It is natural, therefore, for police officers to grant at least small indulgences to informers. How far an officer should be allowed to go in this matter is a serious question, and one to be determined only with all the facts available.

It is extremely doubtful whether informers ever can be entirely dispensed with. This seems impossible unless we abolish entirely testimony by witnesses—which, of course, is unthinkable. The charge is frequently made, sometimes with justification, that informers working with police officers deliberately "frame up" cases in order to secure monetary or other reward from officers of the law; and further, that when a serious offense is committed the public demand results from the Police Department—a de-

mand which the police feel they must satisfy if they are to merit continued public support. That there is a certain justification for this view on the part of the police is evidenced by the fluctuating attitude of public opinion as expressed in the newspapers. At one time the police are condemned for the use of stool-pigeons, because of some abuses which develop therefrom; at another time they are censured and condemned if they do not know instantly who it is that gained access to the rear of a building at night and killed an old man asleep in his room. Abuses, real or alleged, growing out of miscarriage of justice due to "frame-ups" and the like, undoubtedly breed contempt for the law in certain quarters and cause many a man to question whether there is such a thing as "justice" in the world.

We may admit the force of the arguments of those who regard themselves as enemies of the police; but we cannot reasonably expect that corrections will be forthcoming through the enactment of laws still further dividing responsibility for law enforcement. Those having experience in dealing with clever criminals usually appreciate this truth; for the experienced and resourceful criminal is a past master at playing police officers against their superiors, police officers against the court and prosecuting officials, and even public-spirited citizens against the police. In fact, under conditions in many of our cities these men have been led to regard such manipulation as part of a most dramatic and exciting game with opportunity to continue an irresponsible life and criminal activities as the stakes. That some police officers and some public officials—and even private citizens—because of a mistaken conception of public

duty or through a misconception of the facts, encourage the clever criminal to continue this game may lessen the severity of condemnation to be visited upon him, but it also increases the necessity for preventing continuance of abuses of this kind.

Improvement in police work through administrative control, law revision, simplification of court procedure, development of a sound public opinion by a more careful dissemination of the facts and betterment of all agencies and institutions depended upon for developing and training the individual, will effectively check abuses of this kind. One other concrete suggestion worthy of serious consideration is a possible change in the law which will require all persons to report to responsible public officials the commission of crimes and breaches of the law observed by them. At present citizens, and even certain public officials, are not strictly required by law to report such violations observed by them. If failure to report carried severe penalties, the necessity for employment of informers might be decreased somewhat—although such a law would undoubtedly re-establish conditions which originally gave rise to the demand for Grand Juries where the jurymen often gave testimony as to whether an individual had committed a breach of the law, and where they decided finally whether the accused was to be held responsible therefor. Briefly, to prevent abuses of power by police officers and by prosecuting attorneys, if such a change in the law were made, there should be some agency—probably a Grand Jury—empowered to pass upon penalties for those alleged to have failed to report breaches of the law they have witnessed. In other words, changes in the law in this respect might

again give rise to conditions demanding continuance of the Grand Jury, whereas under present procedure many question the necessity for its continuance. The so-called public defender might be a proper agent to prevent abuses of this kind. At any rate, such a law requiring reports of observed violations would be a notable aid to the police and would effectively halt many criminals who are only occasionally brought to book for their offenses.

Police and the Ex-convict. Police officers often assert that a good detective force is one which is able to maintain constant supervision over all persons released from prison, the theory being that crime is usually committed by men who have previously been convicted. This has given rise to the common complaint that the Police Department hounds men to jail. At one time, under the laws of Mexico, police officers were forbidden to maintain close supervision over first offenders immediately after release from prison. John L. Davie, while Mayor of Oakland, California, related, in his address of welcome to the American Prison Association, which met in that city in October, 1915, that during a visit to Mexico City many years before he learned that when ex-convicts committed a crime after a period of freedom from police supervision, they were not imprisoned in the commodious and well-appointed penitentiary in Mexico City, but were sent to a certain place maintained for second offenders. This place was so arranged that it invited attempts to escape—in which case the guards were ordered to shoot. According to the Mayor, the reports showed that no second offenders ever failed to attempt escape.

Many have suggested legislation in this country

forbidding police supervision over discharged or paroled convicts. Recidivism is too rampant to warrant such laws at the present time, notwithstanding the persistence of abuses of supervision; for it must be remembered that the most vehement allegations of police "frame-ups" often grow out of conditions where the offender alleges that he was not guilty of the particular crime charged against him, but is willing at the same time to tell you in confidence that he was guilty of other crimes. Mr. Osborne relates an interesting experience of his early days as warden of Sing Sing. A prisoner told him he was not guilty of the offense which sent him to the institution. Later Mr. Osborne asked this man for particulars, stating that he would be glad to take up the case if it were possible to prove an alibi; whereupon the inmate remarked, sagely: "Warden, I can prove an alibi all right in this case on which I was convicted, but to do so I would have to show that I was committing a crime on the next street at that time."

Cases of this kind have been duplicated in my own experience time and again. All such allegations merit most careful investigation by those who know how to deal with offenders. But the well-intentioned and inexperienced person is often as putty in the hands of a clever and resourceful criminal.

The remedies for these abuses, in my judgment, should not be sought in statutes which would unduly hamper police activity, but in action which will require the police to establish more friendly relations with the released convict. This action would include securing a position for the man, friendly counsel, and supervision over him for a certain period. The imposition of such duties may be depended upon to change

greatly the police officer's point of view. This result may be facilitated by offering suitable rewards to policemen for preventing crime, instead of basing promotion, honorable mention, and award of merit solely upon arrests, convictions, and long prison sentences.

It will not always be easy, of course, to draw a line between the capable officer who carries through an investigation, an arrest, and a conviction, and the capable officer who prevents arrest by friendly counsel, by securing work for the released offender, and by continuing friendly relations with him. However, it will be hardly as difficult as maintaining the present negative police duty of crime prevention.

Certain large industries have demonstrated the success of espionage as a means of preventing moral laxity among working-men. A former officer of the Ford Automobile Company recently informed me that through careful espionage they had induced all their employees to tell the truth—this espionage having demonstrated conclusively to the employees that they would lose rather than gain by attempting to deceive the officers concerning the intimate details of their lives. While I was attending college I worked one summer as a day laborer in one of the largest gold-mines in the United States, where I learned from my fellow-laborers that the company checked up the movements of all employees in order to prevent gambling and other abuses which operated to destroy family life and to reduce working efficiency. What I learned from these men led me to believe that the benefits accruing to the men from their knowledge of such supervision exceeded greatly any disadvantages that might result from abuse of control.

Bonding companies employ detectives to familiarize themselves with the habits of public and other officials who are bonded by these concerns. The companies rely upon the reports of these officers in assuming any risk. Bonded officials appreciate that such supervision tends to raise their standard of performance. The danger of newspaper publicity operates in a similar way. Thus publicity on the whole does more good than harm, notwithstanding that it often makes cowards of public servants.

The Police Commissioner of New York, Mr. Arthur Woods, has made notable improvements in the work and point of view of the force. For example, as a member of the Parole Commission of the city, and in co-operation with that commission, he assigned forty picked police sergeants as parole officers. These men all volunteered to act as parole officers during their leisure time—that is, when they were not actively on duty as police officers. These sergeants from time to time, in plain clothes, meet the inmates paroled from institutions of the Department of Correction of the city. Such meetings are at certain appointed places which are not associated in any way with the police business. The sergeants act as friendly advisers, as parole officers, securing work and schooling men as to how they may go straight. Although the plan has been in operation but a short time, excellent results are shown—since the resourceful sergeants, because of their training and experience, know how to deal with these released offenders in a practical way.

The Police Commissioner also has formulated a plan whereby police officers are to be given certain merit marks for preventing the development of crime. He has endeavored to secure the assistance of the Civil

Service Commission so that this body, in examinations, will base experience ratings in part upon approved reports showing that crime has been prevented where arrests have not been made, as well as upon proof that drastic repressive measures have been carried through. The force has responded thus far with alacrity to this plan, because the intelligent police officer understands that his success depends upon his standing in an examination where he was formerly rated by his record of arrests and convictions and by his familiarity with the penal law. Policemen have told me that a number of officers high in the department formerly obtained their present standing through civil-service examination because they were able by means of a "pull" to secure what were known as "soft details," where they had little police work to do and plenty of time to memorize the book of rules of the department and the penal law. In this way, when examination day came, they were able to stand at the head of the list and to "nose out" men who had been loaded down with responsibility which they had discharged effectively.

These new assignments and changes appear to have increased the effectiveness of the Police Department of the city of New York. They have improved especially the morale and *esprit de corps* of the men as a whole—although this is particularly noticeable in the detective bureau and in the special squads operated from headquarters.

That these changes, moreover, have operated to discourage the commission of crime is evidenced, for example, by a great increase in the number of persons pleading guilty to offenses charged against them—although, of course, this is not the only explanation

of the increase. There has been a decided change of view on the part of capable and clever offenders. Many are anxious to secure opportunities for work and straight living.

While this is undoubtedly due in part to a change in the attitude of the public toward the offender, the certainty of arrest and conviction is a factor not to be ignored. These influences combine to prevent the commission of serious crimes by clever and resourceful criminals, although they may not be so evident among petty offenders. Mayor Mitchel's orders against gangsters and street rowdies, and his sturdy refusal to permit politics to permeate the department, have been a potent influence in discouraging the activities of those who heretofore made a good living as parasitic offenders.

III

THE RÔLE OF THE POLICE

HAVING considered those factors in police administration which interfere with good work, we may well inquire how crime is to be prevented by what the old-fashioned police official calls regular police work. Good police work presupposes that arrests shall be made only as a last resort in the case of petty offenses; that arrest and conviction will surely follow the commission of serious crime; that arrests will not be made unless there is reasonable hope of conviction; and that the percentage of convictions, therefore, shall be high. It also presupposes that there shall be hearty co-operation among the police, the courts, and the prosecuting attorneys, and that the police shall be supported by the public when they are clearly performing their duty; furthermore, that the police officers shall be rewarded for preventing crime through true remedial measures, as well as for preventing crime by arrests and convictions.

But what are proper remedial measures for the police to take? All will agree that the police should be friendly advisers and instructors when this course is intended to keep men out of trouble. No one will question that the police should protect intoxicated persons from arrest by calling an ambulance and

sending them to a hospital or to their homes or to some other place of safety. Nor will any one seriously question the advisability of having the policeman who warns children against breaches of the law through play in the street advise them also where the nearest playground or recreation center is situated. Serious doubt arises, however, as soon as police activity interferes with private morals, as has already been explained; or when police activity interferes with private profit or with the conditions of those engaged in trade. The law long has recognized property rights to the exclusion of private or personal rights, because, after all, congested cities, which are the outgrowth of economic conditions, are of comparatively recent development. The theory of law governing the public highway gives the abutting property-owners possession in the street to the middle thereof except for certain public purposes—chief of which is the right of use by the traveling public, which under our laws and State constitutions generally cannot be abridged.

This law rendered difficult the roping off of certain streets during specified hours of the day for public recreation. This difficulty has been partly met by the Police Department in the city of New York through the establishment of traffic rules whereby certain heavy traffic and speedy vehicles are required to use specified streets during certain hours of the day and to avoid specified streets during certain other parts of the day; at least they are required to use one cross-street if they are going in one direction, and the next cross-street if moving in the opposite direction. During the summer of 1916 parts of forty-seven streets thus were used as playgrounds during certain

hours of the day. Such streets are usually closed from 3 to 6 P.M. Others are thus closed from 7 to 9 in the evening. The hours depend upon the demands of the neighborhood. Stanchions are placed at each end of the street and police officers stationed to direct the traffic. The Police Department reports that the average daily attendance at these street playgrounds has been one hundred. A more intimate and desirable relationship has been established between the children and the police, and there has been a gratifying decrease in the number of street accidents.

Police work in dealing with vagrants and the unemployed does not always meet with approval, because the public naturally sympathizes with those out of work and finds it difficult to discriminate between the man who is willing to work and the man who is unwilling or incapable. New York's Police Commissioner has met this situation by utilizing the police force in securing positions for the unemployed. During the winter of 1915, it is estimated, between three and four hundred thousand persons were out of employment in that city. Governmental and private agencies were strained to the utmost in providing work to meet this serious condition. The police did their part; 977 families and individuals were reported to the department, and after receiving immediate attention these were referred to relief societies or sent to places where they could secure work.

From January 1 to August 1, 1916, according to the police records, there were 542 cases of distress and unemployment cared for by the Committee on Distress and Unemployment of the Police Department. This committee was organized in December, 1914. Of the 542 cases handled by it during the first

seven months of 1916, 475 were men out of work. During 1915 it was necessary to refer 91 per cent. of the cases to the relief and charitable societies of the city—this being due to the unsatisfactory industrial conditions then existing; whereas during the first seven months of 1916 only 10 per cent. of the cases handled were referred to the charitable organizations, positions for the remaining 90 per cent. being obtained through employment agencies or directly from manufacturers.

Activities of this sort have led the Police Department to take more drastic action against vagrants. The Mendicant Squad during 1915 made 4,602 arrests, and the uniformed force approximately 2,500, a total of 7,108 arrests for vagrancy during 1915. Formerly these vagrants were either discharged or committed to the workhouse for short periods; but beginning with January 1, 1916, the Indeterminate-sentence and Parole Act made possible commitment for longer periods—the Parole Commission being empowered to hold them until positions are secured for them, provided the term does not exceed two years.

The Police Department undertook an interesting investigation of bread-lines maintained in the city. During the early part of 1916 there were seven such lines in existence. Beginning with March 19, 1916, an effort was made to find out how many of these men were willing to work. A number of lines were visited, and about 3,000 men were offered positions. Of this total number less than 50 men availed themselves of the chance to work, and there is no record to show that any one of these 50 men held his job more than a month. Mr. LeRoy Peterson, who has been handling this work under the Police Commissioner, states

that these bread-line men may be divided into two classes: "About 50 per cent. were old wrecks who were physically unable to do a day's work. They were obviously underfed and were in a low physical and mental condition. The remainder was made up of young, able-bodied men who had no desire to work. These are usually too clever to be caught panhandling and manage to exist by regularly attending the bread-line."

The records show that attention given to remedial work not only has not interfered with the efficiency of what has been regarded as regular police work, but has been accompanied by marked improvement in the department. For example, crimes of violence reported to the Detective Bureau numbered 2,636 during the first half of 1915, and dropped to 2,277 for the first half of 1916. There were 116 murders in the first half of 1915, 106 in the second half of that year, and only 94 in the first half of 1916. Burglaries and other major crimes of theft dropped from 11,931 to 9,575. Arrests for misdemeanors dropped from 55,599 for the first half of 1915 to 48,681 for the first half of 1916; whereas summonses jumped from 28,473 for the first six months of 1915 to 38,727 for the corresponding period in 1916. If we are to measure efficiency of police work by the percentage of convictions following arrest, the following figures must be satisfying even to the most conservative police officer of the old type:

First quarter	1915	78.02%
Second "	1915	78.61%
Third "	1915	81.43%
Fourth "	1915	81.95%
First "	1916	81.53%
Second "	1916	81.57%

Centralized Identification and Other Records. The advantages of centralization in probation, parole, and clearing-house work have already been pointed out. Attention is again directed to this subject to emphasize its importance. Society has been too long satisfied with waste and inefficiency in the use of information collected by different governmental agencies at an enormous cost to the people. Partisanship and prejudice have been permitted to continue their pernicious influence in this whole field. I wish again to assert that no citizen has good reason to object to the filing of proper identification records in a proper central bureau, where the filing takes place under conditions which do not presuppose that a record of potential offenders is being built up. The Rogues' Gallery of the ordinary Police Department forms the central bureau where finger-prints and other identification records of criminals are filed. If the public pays for the expense of having an expert psychiatrist or physician make an examination of an individual, be that individual ten years or twenty years of age, finger-print impressions should be taken and sent to some other central bureau, so that expensive inquiries to ascertain the social history of individuals need not be duplicated again and again, and so each examination may be builded upon facts ascertained at previous periods and made available by a proper system of filing. Such a system would inspire in individuals a wholesome respect for the law, because law enforcement could not be crippled through inaccuracies of identification and the paucity of information obtainable. The commission of an overt act would be regarded seriously by a man if he were sure that he could not deceive the officers of the law—just as it

has been pointed out that improvements in individual living have resulted from the supervision over employees exercised by the Ford Automobile Company.

Those who would build up such a central bureau in a Police Department are unwise, in my judgment, because it is not possible for the police to hold control over offenders for sufficient time to enable that department to secure the kind of information which should be had. The period of the prisoner's industrial training and reformation offers the opportunity which should be utilized for study—a period during which the individual may be held for a time sufficient to enable those having custody of him to observe him under normal conditions—where it is not possible for him to trick the observer all the time. I have already outlined a plan for carrying this into effect.

Employment. Some time ago few, perhaps, would be willing to place employment among the direct forces operating to check the development of offenders. But recent history seems to show clearly that employment may be counted upon as one of the principal factors in crime prevention. Take, for example, the Department of Correction of the city of New York. In December, 1913, there were less than 5,000 in the various institutions of that department. During the winter of 1914–1915, when most distressing industrial conditions prevailed, the number of inmates held in the institutions at one time reached the extraordinary figure of 7,400. This number declined rapidly during the following winter and the early spring of 1916, and on August 31, 1916, was only 4,930. Similar reductions in other institutions of the State of New York and adjoining States have taken place. The only apparent explanation, aside from the

effect of the new indeterminate-sentence law, is that good times and plenty of work have greatly reduced the number of persons committing offenses which lead to correctional institutions. The validity of this deduction is more evident because the number of inmates of the Poor Farm and Home for the Aged operated by the Department of Charities of the city of New York did not appreciably decrease during the same period. That is to say, there was no decrease in the number of those unable to work who were committed to the institutions.

It is not possible to enter here into a discussion of remedial measures which might be undertaken to insure regularity of employment; but it is clear that opportunity and regularity would decrease considerably the number of offenders finding their way into correctional institutions. It cannot be disputed that self-interest should impel society to provide education and training which would enable every man to earn an honest and decent living, and also to provide insurance of some kind against unemployment, sickness, and accident.

Conclusion of the Matter. Since the average total number of criminals at any one time is equal to about 2 per cent. of the population, there is abundant reason to declare that crime-prevention work can be carried to a successful conclusion. If the number of criminals were 20 to 25 per cent., the case might seem hopeless. It is certainly not to the credit of society that the 2 per cent. has not been reduced ere this. Society has puttered with symptoms instead of attacking causes. It has proceeded too long upon the old eighteenth-century conception of free will and of equality. It has assumed that all men are created and

endowed with equal ability, and that if each man is free from artificial restraints he will be able to take care of himself; therefore, that the individual is to be fettered as little as possible and to be allowed to develop under conditions of free competition. These theories go contrary to the facts.

We are now beginning to comprehend that many are born under conditions which impose a serious handicap, and that many others are reared under conditions which stunt them and prevent their normal development. This means that if we are to attack crime successfully we must attack those conditions in society which produce abnormality in the individual; in short, that the problem of crime prevention is bound up with all the great social questions, and we cannot hope to solve satisfactorily the problems connected with correctional institutional management until society is able to cope more effectively with the great economic and social problems of the workaday world.

Our institutions for the care and custody of the offender must be operated in such way as to return to society as many of the inmates as possible, while at the same time utilizing the experience of those in charge and of those subjected to confinement for the development of a sound program of crime-prevention work.

APPENDIX I

Brief Description of the Functions of Self-Government in the Preston School

Calvin Derrick, Superintendent

In undertaking a discussion or description on the general subject of self-government in the Preston School, I find myself handicapped and under some embarrassment from the fact that the functions and problems of self-government are so closely associated with and dependent upon all of the social and industrial relations sustained in the place, that to separate one from the others is to greatly minimize the field of one and largely ignore the other two.

However, in this present description I am concerned chiefly with but two points—namely, a study according to the most approved scientific methods of determining, as nearly as possible, the exact mental measure of each boy coming to the institution, in order to determine what degree of responsibility the boy may be reasonably expected to carry; and second, in applying this knowledge about the boy in the best possible way to the advantage of the boy. In carrying out the two lines of investigation—that is, the mental tests and their application to the advantage of the boy—we are seeking to establish, by actual experiments, the most practical way of training boys in institutions in order that the institutional product may become effective and have something like an even chance in the world at large when he has finished his institutional experience. It will, therefore, be necessary for me to ask a moment's in-

dulgence while I explain, briefly, the part that the Binet work plays in self-government.

As inquiry into the mental status of our wards has increased, so has the rehabilitation of the juvenile offender been discovered to be essentially the problem of the mental defective. It was formerly our conviction, and is now our positive knowledge, that a large proportion—in fact, over three-fourths—of our inmates are mentally retarded. This condition of mental abnormality is so general and so serious as to demand the study of groups of carefully selected subjects in order to discover, if possible, what may be accomplished under institutional care. We find in our population not only the delinquent, but the defective delinquent, the dependent boy of both normal and defective type at different ages, since our population has a range of from eight to twenty-six or twenty-eight years of age. The Preston School population represents boys who have been reared in institutions, beginning with orphan asylums, some who have served long periods in correctional institutions, as well as the defective and undeveloped boys from thoroughly good homes and of good parentage. In other words, as a laboratory for the investigation of mental deviation in any of its phases outside the realms of insanity, Preston School offers a very favorable field.

For over two years we have been using the Binet-Simon tests for measuring the intelligence, and in this time have examined over twelve hundred separate cases. The purposes of our tests have been solely to discover the highest possible mental ability of the boy. However, the tests have been carried on in conjunction with other work and in a manner which has made it possible for us to obtain a great deal of very intimate knowledge concerning the boys. . . .

The cadet government of the Preston School of Industry is a responsible organization. It is not a mock government, nor is it in any sense an excuse. It has a definite, well-organized field of endeavor, clean-cut and definite lines of

procedure, and can no more be excused from carrying out its aims and performing its duties than the State officials connected with the institution. The government consists of nine states, or companies, each having its own governor, executive officers, and courts. These officers have absolute control and are absolutely responsible for the discipline of the company in their own quarters and on playgrounds. If the offense amounts to a felony under the republic laws, then the case is brought to trial in the superior court, which is presided over by the chief justice, a member of the president's cabinet.

In some companies the degree of control has been greatly extended, the State officers in charge of those divisions having given greatly extended powers to the government. The nine states combined form the republic and are presided over by a president and cabinet, elected by popular vote each six months. The cabinet consists of the vice-president, secretary of state and treasury, attorney-general, chief justice, secretary of labor and interior, and secretary of military affairs. This cabinet forms the central government and has very great powers. For instance, the receiving company for new boys is entirely in the hands of the central government. Only boy officers are in charge. There are from thirty to forty boys in the receiving company constantly. The course of study and examination previously referred to are required by the central government as a means of naturalization, and those boys who cannot or do not complete the course and pass the examination satisfactory to the government officials may not become voters, although they may become residents of self-government companies. But in all matters, the receiving company is directed by the president and cabinet.

The aim in the receiving company is to give the new arrival a thorough insight into the various conditions, which will enable him to choose for himself what his life in the institution shall be. If a boy from the beginning proves obdurate, is determined to be defiant, will not listen

to advice or reason, and is practically unworkable, he is placed in another company reserved for the care and training of that type of boy.

During the first ninety days of a boy's residence he is required to do housework. During this period, if it is discovered that he is competent for nothing better, arrangements are made for him to receive thoroughly good instruction in various domestic departments, to the end that he may be trained as a waiter, a janitor, or some kindred line of work. However, if he is competent for something better, at the end of three months he graduates from housework and is placed in a trade.

It might be well to explain at this point that our system of release now depends upon the work that a boy is able to do and his attitude toward his work and his own future. A boy wins his release by earning 7,200 credits. He may earn as many as 20 per day or as few as 5. Boys are segregated into 3 grades. The first grade receives not over 20 and not less than 16 credits a day; the second grade, not over 15 nor less than 11, and the third grade not over 10 nor less than 5. A boy is promoted for good work, good effort, and responsible, painstaking conduct. He is demoted for indifference, for persistingly poor work, for habits of shiftlessness and idleness, or for bad conduct. However, a boy is never demoted industrially on the basis of bad conduct alone.

The officer or instructor in charge of the boy's work fixes the exact number of credits the boy shall receive for his day's work. But he is bound to observe the classification. For instance, a man having three second-class boys working for him on the same kind of work might give one boy eleven credits, another twelve, and the third fifteen. Thus the officer has an opportunity of giving proper rewards for interest and zeal and accomplishment.

Also, boys who pass civil-service examinations and accept government positions may receive extra credits, if their work as a government official is satisfactory and effi-

ciently carried out. Also, the boys writing articles for the weekly publication, *The Review*, receive pay in credits.

Good conduct is never rewarded by a present of extra credits, nor is bad conduct ever punished by demerits. Good conduct attracts attention and the boy is thus put in line for more responsible positions and given opportunity to earn extra credits by doing extra work. For lack of work he is given lower classification and deprived of the opportunity of earning extra credits, but we never take anything away that we have once granted. The only exception to this rule is in the case of wilful destruction of property. A boy pays for his destructive outbreaks of temper and of loss of property, due to negligence, by giving up credits at the rate of a penny a credit. This appeals to the boy as being fair because credits are equivalent to time, and his time is the only equivalent he has to offer the State for its money outlay in wasted property.

We feel that it is of first importance that every possible incentive be offered the boy while in the school to cultivate initiative and to assume responsibility. He is, therefore, encouraged to work out as many original things in any field as he can. He is encouraged to train himself to take a set of general directions about a given piece of work and without further supervision, excepting that of a casual nature, to work out the details and complete the work. Boys are often selected as foremen over other groups of boys, with a view to developing just this particular quality within them. If a boy shows attention and zeal in learning a trade and accomplishes a sufficient amount so that he may engage as a helper or apprentice in this particular field outside, he is presented with a full kit of tools when he leaves the school. He takes with him whatever a journeyman of his particular line is expected to possess when he applies for work outside. Also, he is given a suit-case with a sufficient amount of clothing to enable him to begin life on a par with other working-men—a Sunday suit, a thoroughly good working suit, two pairs of shoes, three suits of

underclothing, one-half dozen handkerchiefs, four collars, two cravats, one-half dozen pairs of socks, and a work cap. He is thus enabled to wear clean clothes until his first laundry is returned. He is able to appear as a working-man on week-days and properly garbed for street or church on Sunday.

When a boy is paroled, he goes out under a "Big Brother" plan, which has proved very successful. Our parole officer is an *officer* in name only. He has only the friendliest kind of oversight and is never permitted to arrest any boy. The parole violators are locked up and arrested, if found, by other officials. The parole officer's chief business is to be a friend and first aid to the paroled boy. If a boy fails on parole, it is the business of the parole officer to set him up and get him started again, without returning the boy to the school, if that is practical and possible. A boy is not returned to the school for any technical violation of parole unless the violation is persistent and wilful. We have numerous cases on record where a boy has quickly fallen down upon leaving the institution, but who has been set up and put on his feet and kept there by the friendly and persistent efforts of our parole agent.

The superior court conducted by the chief justice and the attorney-general acts as a court of appeal from the company courts and has original jurisdiction in all cases amounting to a felony under our laws. The government maintains a prison consisting of fifteen cells. This prison is presided over by a warden and three marshals, appointed by the president, his appointment being confirmed by the Prison Commission, which consists of the president, the superintendent of the Preston School, the military instructor, and the psychologist. This prison is run independently of the rest of the school except for the oversight of the Prison Commission.

Over 90 per cent. of the discipline of the school is carried on by cadet courts. The general discipline of the whole institution is better to-day than it has even been under

State control. It is an honor proposition, with the highest mutual regard for the word honor. The State officers have learned to respect and look up to the cadet officers, many of whom have proved to be very devoted and very efficient. We have serving in the government to-day five boys who have been entitled to parole or discharge, some of them for many months, but who, through their devotion to the cause of self-government, are staying on in order to help more firmly establish their fellows in the good cause. The president is charged with the responsibility of issuing passes to any cadet officer who wishes to be out of his company at an unusual time. It is necessary often for the cabinet and other officers to meet in the evening and to meet in various places. They are often out until nine or ten o'clock, but there has never been an escape due to a misplaced confidence by the president. There have been entertainments, banquets, and musicals given by the cadet officers for the State officers, and *vice versa*. The president, certain members of the cabinet, and those cadets who are in charge of companies eat in the officers' dining-room and at the same tables with the regular State officers.

It has come to be the custom, when there are secret disorders or other grave troubles, such as are constantly arising in an institution, to secure the advice and help of the boy officers. If there is a certain group in any spot or place in the institution affected by self-government where the boys fall down on their work, where they are slacking up in such a way as to call forth unfavorable comment at work, the matter is brought up at the cabinet meeting and the company officers, or, if they are not thought to be the proper ones, then some members of the cabinet are detailed to look into the matter and bring the pressure of the government to bear; but in every case, so far as possible, the boy and the government, rather than the State and the boy, come in contact.

In conclusion, we desire to point out that while the cadets of the Preston School of Industry have made a general

advance along all social and economic lines as a direct result of the institution of self-government, still it is at the same time not a panacea and it has its own faults and presents its own problems. There are good and bad cadet officers, as well as State officers. Self-government is not necessarily bound to succeed in every case or in every institution. The test of any system is its product and we submit that the results obtained, as shown by the large increase in our successful paroles, the accumulated good will on the part of the discharged, as well as inmates, toward the State and society in general, the mutual respect which has grown up between the government of the State of California, and the cadet government of the Preston School of Industry, the general good-fellowship which has been fostered and radiated, these, all of them, speak loudly in favor of our plan. It seems unjust and foolish to indiscriminately mix all temperaments, grades of intelligence, and degrees of mental responsibility, and subject the masses to a uniform system of control. The placing of liberty, the functions of government, are as truly appreciated by a majority of the inmates as is true of the population in general, and since it is a recognized fact that the majority of the boys who do wrong do so without the deliberate intention of harming themselves or any one else, it is fair to assume that this same majority can be worked upon from the inside outward and be led to see the error of their ways and co-operate toward their own reclamation, rather than being forced to submit to a régime in which they can have no interest, which draws nothing from them but contempt, and unfits them rather than prepares them for liberty under law.

APPENDIX II

Insanity and Criminal Responsibility—Excerpts from the Report of Committee "A" of the Institute of Criminal Law and Criminology[1]

This committee was created at the second meeting of the Institute, held in Washington, D. C., in 1910, under a resolution which provided for the appointment of a committee "to investigate the insane offender with a view, first, to ascertain how the existing legal rules of criminal responsibility can be adjusted to the conclusions of modern medical science and modern penal science, and, secondly, to devise such amendments in the mode of legal proceedings as will best realize these principles and avoid current abuses." It will be noticed that the scope of the committee is limited to the case of the "insane" as distinguished from the "mentally defective" offender, and further that "the existing legal rules of criminal responsibility" are to be taken as the basis for all proposals. There is a wide difference between mental defect and insanity, or mental disease, and each must be considered separately in its relation to criminal responsibility. It is only within very recent years that a careful study and classification of mental defectives have been made, and the problem of determining the legal responsibility of such persons has not as yet been fairly faced.

Regarding the question of criminal responsibility, it must always be borne in mind that this is a legal question.

[1] Reprinted from the Journal of the American Institute of Criminal Law and Criminology.

Criminal responsibility means accountability according to the requirements of the criminal law, which determines what acts shall constitute crimes and establishes the essential elements of these crimes. According to our law, the test of responsibility in all offenses except a small group of mild wrongs, which may be described as public torts and prohibitions within the police power, is the existence of *mens rea*, or criminal mind, often called criminal intent. The problem for this committee, accordingly, has been to frame a provision that is based upon this fundamental principle of the criminal law, and at the same time is consistent with the established theories of the medical profession regarding mental disease. The difficulty with the present law relating to insanity is that it prescribes tests of responsibility which are not in accord with general principles of law and has incorporated into itself obsolete medical views of mental disease.

* * * * * * *

Your committee presents as its final report on this point the following draft, which the Institute is asked to approve:

SEC. 1. No person shall hereafter be convicted of any criminal charge, when at the time of the act or omission alleged against him he was suffering from mental disease and by reason of such mental disease he did not have the particular state of mind which must accompany such act or omission in order to constitute the crime charged.

SEC. 2. When in any indictment or information any act or omission is charged against any person as an offense, and it is given in evidence in the trial of such person for that offense that he was mentally diseased at the time when he did the act or made the omission charged, then if the jury before whom such person is tried concludes that he did the act or made the omission charged, but by reason of his mental disease was not responsible according to the preceding section, then the jury shall return a special verdict that the accused did the act or made the omission charged

against him, but was not at the time legally responsible, by reason of his mental disease.

SEC. 3. When such special verdict is found, the court shall remand the prisoner to the custody of (the proper officer)[1] and shall immediately order an inquisition by (the proper persons)[1] to determine whether the prisoner is at that time suffering from a mental disease so as to be a menace to the public safety. If the members of the inquisition find that such a person is mentally diseased as aforesaid, then the judge shall order that such person be committed to the State Hospital for the Insane, to be confined there until he shall have so far recovered from such mental disease as to be no longer a menace to the public safety. If they find that the prisoner is not suffering from mental disease as aforesaid, then he shall be immediately discharged from custody.

The proposed measure establishes a direct relation between criminal responsibility and mental disease. As has already been stated, the standard of responsibility in practically all cases is the existence of the criminal mind, as defined by law, at the time of the doing of the wrongful act. Any fact which negatives this state of mind removes one of the requisites for conviction. Mistake of fact, for instance, is a good defense, when by reason of it the defendant did not have the guilty mind at the time of his act. Consequently the provision now under discussion is seen to be in strict accord with a fundamental principle of the criminal law.

The proposed provision is also consistent with the present views of the medical profession regarding mental disease, for it does not limit the defense to any particular form or symptoms of mental disease, and does not attempt to draw the line between sanity and insanity. Psychiatrists and

[1] When this bill is introduced in the Legislature of any State, the titles of the persons whose duty it is, according to the law of the State, to conduct an inquisition, shall be inserted here, as it is not proposed to change the prevailing practice in this respect.

psychologists no longer regard insanity as a definite, clearly defined state, with a sharp line of cleavage separating it from sanity, but simply as mental unsoundness which may be as varied in its forms, degrees, and symptoms as physical ill health. Under this proposal the expert witness would not be required to state categorically whether the defendant was sane or insane at the time of the alleged crime, but would be asked to state the symptoms of his disease. The judge would then describe to the jury the state of mind which is involved in the crime charged, and the jury would then determine whether the defendant, by reason of the mental symptoms enumerated by the witness, had the particular state of mind described by the judge. It would not be necessary for the expert witness or the judge to use technical terms in performing their respective functions, and as a result the jury would have less difficulty than at present in reaching an intelligent and appropriate verdict.

According to the proposed plan, in case the jury find that the defendant did not have the necessary criminal mind by reason of his mental disease, they will return a verdict to this effect, and the court will then order an inquisition to determine whether the defendant is then suffering from a mental disease so as to be a menace to the public health and safety. If the jury so find, then the judge will commit him to a hospital for the insane. The issue in this second inquiry into the defendant's mental condition is necessarily different from the first. Then the question was whether he was guilty of a crime committed in the past; now the question is whether he is a safe person to be at large.

Under our present law on the subject of insanity the question is whether the defendant, by reason of his mental disease, shall be held not responsible to the law for the injury he has done. There is another question which is almost equally important, and that is whether a mental disease, although not of sufficient degree to relieve entirely from responsibility, may not be held to lessen the degree

of the crime. For instance, may not a person charged with murder escape conviction for that offense because by reason of his mental disease he did not have the malice aforethought, but be found to have enough *mens rea* to be guilty of manslaughter? This doctrine of partial responsibility has been adopted by some continental countries and has earnest advocates here. The Supreme Court of Utah in a decision rendered last year applied this doctrine. (State *vs.* Anselmo, 148 Pac. 1071.) If the proposal of the committee be accepted, partial responsibility follows as a logical conclusion.

Although the subject of expert testimony was not included in the original scope of this committee, yet as it plays such an important part in the trial of cases where insanity is set up as a defense, and is so often regarded as productive of miscarriages of justice in such cases, it was decided that the solution of this problem should also be undertaken. Accordingly, in 1914 the following draft was submitted to the Institute, and was unanimously approved:

Section 1

Summoning of Witnesses by Court

Where the existence of mental disease or derangement on the part of any person becomes an issue in the trial of a case, the judge of the trial court may summon one or more disinterested qualified experts, not exceeding three, to testify at the trial. In case the judge shall issue the summons before the trial is begun, he shall notify counsel for both parties of the witnesses so summoned. Upon the trial of the case, the witnesses summoned by the court may be cross-examined by counsel for both parties in the case. Such summoning of witnesses by the court shall not preclude either party from using other expert witnesses at the trial.

Section 2

Examination of Accused by State's Witnesses

In criminal cases, no testimony regarding the mental condition of the accused shall be received from witnesses summoned by the accused until the expert witnesses summoned by the prosecution have been given an opportunity to examine the accused.

Section 3

Commitment to Hospital for Observation

Whenever in the trial of a criminal case the existence of mental disease on the part of the accused, either at the time of the trial or at the time of the commission of the alleged wrongful act, becomes an issue in the case, the judge of the court before whom the accused is to be tried or is being tried shall commit the accused to the State hospital for the insane, to be detained there for purposes of observation until further order of court. The court shall direct the superintendent of the hospital to permit all the expert witnesses summoned in the case to have free access to the accused for purposes of observation. The court may also direct the chief physician of the hospital to prepare a report regarding the mental condition of the accused. This report may be introduced in evidence at the trial under the oath of said chief physician, who may be cross-examined regarding the report by counsel for both sides.

Section 4

Written Report by Witness

Each expert witness may prepare a written report upon the mental condition of the person in question, and such report may be read by the witness at the trial. If the

witness presenting the report was called by one of the opposing parties, he may be cross-examined regarding his report by counsel for the other party. If the witness was summoned by the court, he may be cross-examined regarding his report by counsel for both parties.

Section 5

Consultation of Witnesses

Where expert witnesses have examined the person whose mental condition is an element in the case, they may consult with or without the direction of the court, and, if possible, prepare a joint report to be introduced at the trial.

This bill was also approved by the conference on medical legislation of the American Medical Association, and, with the exception of the third section, by the Committee on Jurisprudence and Law Reform of the American Bar Association. The bill as approved by the Institute was introduced in several legislative bodies, and was freely discussed there. The committee is now of the opinion that the bill in its present form is too comprehensive, and includes several sections not closely enough connected with the main provisions of the bill. Three sections apply both to criminal and to civil cases. The section on commitment of an accused person to a hospital for observation, though important in itself is rather foreign to provisions relating exclusively to expert witnesses. In addition to this, Section 2, which provides that the accused shall not be permitted to introduce expert testimony unless he submits to an examination by the prosecution's witnesses, is extremely doubtful from a constitutional point of view. Accordingly, the committee has decided to limit the scope of Sections 1 and 4 to criminal cases and to ask that these sections be approved independently of the others. Several verbal changes have been made in Section 1, and Section 4, which

now becomes Section 2. The bill is now presented in the following form, which the Institute is requested to approve:

Section 1

Summoning of Witnesses by Court

Whenever in the trial of a criminal case the issue of insanity on the part of the defendant is raised, the judge of the trial court may call one or more disinterested qualified experts, not exceeding three, to testify at the trial, and if the judge does so, he shall notify counsel of the witnesses so called, giving their names and addresses. Upon the trial of the case, the witnesses called by the court may be examined regarding their qualifications and their testimony by counsel for the prosecution and defense. Such calling of witnesses by the court shall not preclude the prosecution or defense from calling other expert witnesses at the trial. The witnesses called by the judge shall be allowed such fees as in the discretion of the judge seem just and reasonable, having regard to the services performed by the witnesses. The fees so allowed shall be paid by the county where the indictment was found.

Section 2

Written Report by Witnesses

When the issue of insanity has been raised in a criminal case each expert witness, who has examined or observed the defendant, may prepare a written report regarding the mental condition of the defendant based upon such examination or observation, and such report may be read by the witness at the trial after being duly sworn. The written report prepared by the witness shall be submitted by him to counsel for either party before being read to the jury, if request for this is made to the court by counsel. If the

witness presenting the report was called by the prosecution or defense, he may be cross-examined regarding his report by counsel for the other party. If the witness was called by the court, he may be examined regarding his report by counsel for the prosecution and defense.

One member of the committee, Doctor Prince, is strongly of the opinion that Section 3 should be approved as an integral part of one of the two proposals submitted to the Institute.

APPENDIX III

Probation Work

A. States and Territories Having Juvenile and Adult Probation Laws, to January 1, 1916

Forty-five States, Alaska, Porto Rico, and the District of Columbia have juvenile probation laws; twenty-nine States and the District of Columbia have adult probation laws. Massachusetts was the first State to develop the juvenile probation law in 1878. Illinois and Minnesota followed in 1899, while Vermont followed in 1900, and the following States in 1901: Kansas, Missouri, New York, Wisconsin, and the District of Columbia. The first State to develop an adult probation law was Massachusetts, in 1878; Rhode Island followed in 1899; New Jersey adopted such a statute in 1900, and New York in 1901. The last States to adopt such a statute were Alabama, Idaho, and Oklahoma.

B. Excerpts from the Proceedings of the Annual Conference of the National Probation Association

Probation has demonstrated its efficiency as a correctional system. Its fundamental principles are as simple as the gospel and proved beyond question. The system, however, is not simple in its practical application. It requires superior intelligence to organize an efficient probation department, and integrity and humanity to wisely apply it.

The administration of the prison system which shoves the offender behind steel bars and stone walls out of public sight is much easier and less complex.

Illinois

In Cook County, the Juvenile Court is really a great institution. It employs more than 150 people and its very efficient work is recognized by authorities the world over. The probation work is organized into five departments. The Complaint Department, with five officers, handles and investigates all complaints of dependency and delinquency brought to its attention. Through this department, hundreds of family situations are adjusted without a court hearing. The Probation Department, with a force of 34 officers, supervises all children placed on probation. The Funds to Parents' Department, with 20 officers, secures an efficient investigation and supervises every family coming under the Mothers' Pension Law. The Child-placing Department, with 6 officers, establishes in family homes delinquent children who have come under the court's supervision. The Delinquent Boys' Department, with 14 officers, watches over delinquent boys who have been placed on probation. In addition to these there are several officers assigned to special kinds of work. One officer makes the investigations and files the petitions in the cases of feeble-minded children under our new law providing for the commitment and care of such unfortunates. Careful and complete records are kept in all cases.

Splendid work is being done in the Psychopathic Institute under the direction of Dr. William Healy. Examinations are made of children who, on account of being subnormal or who have engaged repeatedly in anti-social acts, have entered the class of "problem cases." Doctor Healy sits with the judge while the cases of delinquent boys are being heard and makes his recommendations with great success.

Massachusetts

We have a law whereby if a person is fined, the court may suspend the fine and place the person on probation with the understanding that the fine shall be paid to the probation officer during such suspension. The probation officer, after collecting said fine, turns it over to the clerk of court, taking his receipt therefor. This year the Legislature has passed the following law:

A prisoner who has been confined in a prison or place of confinement for non-payment of a fine or a fine and expenses, shall be given a credit of fifty cents on such fine or fine and expenses for each day during which he shall be so confined, and shall be discharged at such time as the said credits, or such credits as have been given and money paid in addition thereto, shall equal expenses; and in such case no further action shall be taken to enforce payment of said fine or fine and expenses. (Chapter III, Acts of 1916.)

There was collected in all courts in the State for non-support, restitution, suspended fines, and court expenses, the sum of $311,237.37. The entire cost of the probation service in the State of Massachusetts was estimated at about $158,000 for the current year, which shows that the officers collected nearly twice the amount of the cost of maintenance.

Minnesota

We have had a probation system since 1899, but the Juvenile Court Act was not passed until 1905, and the courts were confined to the three largest cities of the State, namely, Minneapolis, with a population at the present time of 355,000; St. Paul, with a population of 252,000; and Duluth, with a population of 90,000. Total population affected by this law, 647,000. . . .

In the smaller cities and counties, by a law passed in 1909, the Judge of Probate of each county was given juris-

diction in delinquent and dependent cases and the power to appoint probation officers under certain restrictions. During the past year my attention has been called to the work in some of these smaller counties and I was impressed with the careful, thorough manner in which they were handling the situation.

New Jersey

During the past year we have built in Essex County a new parental school, the Essex County Parental School, which is used for the temporary detention of all children under 16 years of age, pending trial or transportation to whatever institution they may be committed. This building is in another section of the city of Newark from the county-court building, and we now hold all of our juvenile court and domestic relations sessions there. The building will accommodate about 65 children—about 50 boys and 15 girls. It contains individual rooms and two very small dormitories, holding three beds each. It is up-to-date in every respect. There are separate schoolrooms and shower-baths for the boys and girls. We have a psychologist who examines each child brought before the court. There is also a physician in charge, who, if he finds a child requires special attention, will refer that child to the proper specialist for medical treatment.

New York

The greatest gains last year were made in New York City. A bill revising the Inferior Criminal Courts Act of New York City, prepared by the Criminal Courts Committee, was enacted. This bill provided for two new big positions, perhaps in some ways the biggest probation positions in the country: the chief probation officer of the Children's Court, which is now separated from the adult Court of Special Sessions and covers the entire city of

New York, five counties; and chief probation officer in the magistrates' courts for the entire city. The salaries are $3,600, as provided in the last city budget. There are also many other gains in the last New York City budget. The salaries were increased for about one-third of the officers and have now been standardized; $1,200 is now the minimum salary to be paid probation officers working in New York City. The increases were to $1,500 after a promotion examination conducted by the Municipal Civil Service Commission.

Tennessee

I think the biggest thing done within the last year in Memphis is the psychopathic clinic which has been established. It meets twice a month. The children are given a physical examination by some physician. We have twenty-five physicians on our house staff who give their services. When the child has that first physical examination, and if there is found reason to suspect he is below normal, he is brought before this clinic. Five of the most eminent physicians in the South, neurologists, psychiatrists, make not only one, but repeated, examinations of that boy or girl to determine whether we can risk probation with that child. I don't know anything that has brought the name of probation work into greater disrepute than the fact we have tried in the past to deal with subnormal people along normal lines. We make all the tests, both of the blood and spinal fluid. We have also established a dental clinic, and it is composed of twenty-three of the best dentists in Memphis, who give us their services. We have a beautiful office in the juvenile-court building, and every child is not only given the care he should have for his teeth, because they tell me that bad teeth make bad boys, but at the same time they are taught the lesson of hygiene.

APPENDIX IV

Excerpts from the Report of Warden Gaylord B. Hubbell, Sing Sing Prison, upon the Irish Convict System and English Prisons, 1865 [1]

Can the Irish system then be adopted to advantage in our country? For my part I have no hesitation in returning an affirmative answer, with emphasis, to this question. There are, to my apprehension, but two obstacles in the way. These are the vastness of our territory and the inefficiency of our police; the former of which offers great inducements to prisoners to attempt to escape, and the latter being impotent to prevent escapes or to rearrest to any great extent. But, on the other hand, in the first place, a system of photography could be so well arranged as to make it difficult for escaped prisoners to remain in the larger towns to lead a criminal life without detection; and in the second place, this country has greatly the advantage over England or Ireland in the more numerous chances of employment for men of this class after discharge. . . .

Should the authorities of our State determine to introduce the Irish prison system here, and should they begin by providing an extended system of buildings, prisons, and all other needful appendages, it would avail little or nothing unless officers of the right sort should be selected and trained for this work, the contract system abandoned, and the whole administration removed beyond the reach of politics.

[1] From the twenty-second annual report of the New York Prison Association.

But at no time and under no circumstances would I be in favor of beginning on so large a scale. The system to be healthy and effective must be a growth and not a mere transfer. All of our State prisons are now overcrowded, and more accommodations must be provided soon. But we must proceed cautiously in this business, feeling our way, as it were, with the utmost care and circumspection. If, therefore, I would be called upon to give my opinion as to the best method of procedure in the attempt to introduce the Irish system, it would be somewhat after this fashion. Let a farm of two or three hundred acres be purchased (no matter if it is cheap, rough land) situated on the line of the Erie Railroad at some point where building materials and provisions can be procured at the lowest rates. This done, I would procure plans and drawings of the best prisons in this country and in England. Having selected a plan combining the advantages of both, I would erect a new prison, having three distinct divisions, near to one another and on the same farm. The first division should have a capacity of not more than 100 cells and should be arranged for separate confinement only. The second division should have a capacity of 200 cells and should be arranged with suitable workshops, in which to employ 200 convicts, who should work in association during the day and be separated by night. The third division should have dormitories to accommodate 100 to 150 men. In the first division, the prisoners, being kept in solitude, would, of course, take their meals in the cells. In the second division a comfortable dining-hall should be prepared. In the third division all the arrangements should be such as to give as much freedom as possible to the inmates.

But one branch of mechanical business should be carried on in the establishment. In the first stage, the employment might be picking oakum, shoemaking, tailoring, etc. In the second stage the mechanical branch selected should be of a nature to develop, to the best advantage, the muscles, strengthen the limbs, sinews, and chest. I would

recommend the forging of chains as excellent in all respects. In the third stage I would continue this same trade, and add to it the occupation of farming. The labor of a blacksmith or hand-worker in iron tends to harden the hands, and so exercise the whole system to hard, rough labor that the man is thereby well prepared to labor on land. Part of the men should be engaged in the shops, and part on the farm at the same time. The buildings belonging to the first and second divisions should be inclosed with a high, substantial wall, and made so secure in all respects that escapes of prisoners would be impossible. The building for the third division ahould have no wall but should be surrounded with neatly finished grounds, provided with shade trees, shrubbery, etc., and should present as far as possible the appearance of a large farm-house.

In the second stage it would be necessary to introduce the mark system, with gratuities and privileges, constantly but moderately enlarging, and the severe restraints of the earlier period should be withdrawn so that the prisoners would be prepared for the greater liberty of the third or intermediate stage. Throughout the entire period of imprisonment, all the moral appliances of chaplains, schoolmasters, lectures, libraries, etc., should be liberally provided and faithfully and zealously used. Some such course as that here marked out would afford us (at least so it appears to me) as fair an opportunity as could be devised to test the Irish system, and I entertain no doubt of a satisfactory result, providing the right kind of men can be secured for the service.

All branches of this system should be under one head. It should have a local board of inspectors and the warden should be assisted by a proper chief keeper to each department, assisted by principal and under keepers, as many as are needed. I am convinced that we have made a grave mistake in this State by having our prisons too large. At Sing Sing it is impossible for the warden to know all of

the convicts, much less to study their characters and thereby learn how to treat each one.

A careful system of classification of prisoners should be made, based on marks, honestly given, according to their character, conduct, industry, and obedience. For it must be remembered and never forgotten that a classified system of association without marks, and without impressing on the prisoner's mind the necessity for progressive improvement, is of little or no value. Of this, the experience of Captain Maconochie and the results obtained in Ireland, under such a system, afford a clear and undoubtable proof. Similar proof has also been furnished in one, at least, of the local prisons of England. The visiting justices of Yorkshire, after a careful examination of the Irish system, became so convinced of the superiority of that method that they caused the mark system to be introduced into the prison at Wakefield. The result was as follows: While without any progressive awarding of marks, the number of transgressors of the discipline during one month amounted to 25 per cent. of the prisoners; in the same period of time under the mark system there were only 15 per cent. The above figures, however, relate to offenses of so light a nature as, for the most part, to require only an admonitory caution. With regard to serious misconduct requiring actual punishment, the number of prisoners incurring such under the old system (without marks) was 16 per month, whereas after the introduction of the mark system the number was reduced to 6 for the same period.

All prisoners sent to the proposed system should, under proper restrictions, be allowed to work their way out; but it should be clearly understood that no prisoner can ever have this advantage more than once. Those who are convicted a second time, after being subjected to this training, should go to some other prison to serve out the whole of their sentence, without any chance or prospect whatever of release or pardon.

The Maconochie mark system, the gratuities, the school-

teaching, the library, the course of lectures, competitive examinations, debates, etc., should all be introduced here as well, at least, and, in my opinion, much better than in Ireland. Of course the prisoner's condition should be improved at every advance, and I would make the whole as simple and natural, and the third stage as homelike as possible. Everything should be plain, but comfortable. I have always entertained the belief that a very large proportion of criminals, especially the young men, who get into our prisons, might be reformed and made good citizens; and I feel quite sure that if some such plan as the one here proposed should be tried in our State, the good results would be such as quickly to astonish and delight the friends of prison reform.

After a fair trial, if this system should prove successful (as I have not the least doubt it would), an additional prison for solitary confinement, of larger capacity, might be erected, where prisoners should serve the first eight months of their sentence, and then be transferred to other prisons to learn a trade, under the same rules as those mentioned in the second stage above. These prisons should be prepared with accommodations for not more than three, or at the most four hundred convicts. I would have a different trade provided for each, say some kind of iron-work, as casting and finishing carriage and harness hardware, making files, and the like. Of course a sufficient number of intermediate prisons should be erected to accommodate all who should reach that stage. In this way, as many arrangements of all the different services as are needed could at length be provided and brought into successful operation, and we should have a State prison system that would return the great majority of its subjects to society reformed, industrious, and useful citizens; and I am thoroughly convinced that small prisons, conducted on the foregoing system, if managed with the same degree of care and judgment as men generally practise in their private business, could be made to nearly or quite earn their own support.

Suffer me to here give an illustration by way of showing a contrast between the prison systems of New York and Ireland in the actual working of each. We will first follow a convict through a New York prison where there is but one stage, which is as follows:

The convict appears at the prison in the care of a sheriff, who not infrequently puts on a wise look as he seeks an opportunity (privately) to put the officers on their guard against the prisoner, whom he presents to be a dangerous man.

By the clerk of the prison the convict is examined on the following points: nativity; parents or not; married or not; children or not; occupation; ever convicted before, how many times; temperate or otherwise, etc. This done, he is conducted by another officer through a main hall to a workshop full of prisoners. He passes the whole length of this in his citizen's dress, to be gazed at by a large number of convicts. Entering the small clothes-room, he is denuded, put in a half-hogshead of water, and scrubbed by another prisoner. He is then dressed in his striped prison garb. If the pants are too long he must turn them up; if too short, all he can do is to let his feet stick well down through them. His suit is not often ragged, but nearly always old, stained, patched, and shrunk. In this changed and comical plight he is again conducted the whole length of the same workshop in view of the same prisoners, an object of ridicule, and doubtless of much comment by the whole gang. He is next sent to the doctor, by whom he is examined, and the results recorded in a book. He now passes to the main hall, where an officer shuts him in a common cell. If the contractors are in want of men they are (several of them) soon at his cell door, and they put him through a critical course of examination. He is clearly questioned as to his habits, age, birth, length of sentence, what he thinks he can do, etc. Sometimes the competition among the contractors is so sharp that they resort to chicanery and deception to carry their point; and if the prisoner should be a healthy,

bright-looking young man, he is not infrequently induced to tell a falsehood in order to get with a contractor who has offered him some favors as an inducement. Sometimes this contest leads to bitter words, and then the case must be decided by the warden, who thereupon is sure to come in for his share of abuse for showing (as it is sure to be alleged) partiality in favor of one contractor to the prejudice of the others. Now the prisoner goes alone to some shop where he is an object of curiosity to all the other prisoners. They contrive every possible plan to communicate with him, and it often happens that he can give them a deal of news regarding the outer world, especially as it relates to the haunts of vice, improper houses, and particular characters, companions in crime, etc.

When this excitement has died away some of the older convicts will most probably take him in hand as his teachers, giving lessons not always for his benefit; but acting in disguise, they will advise him how to lay his plans to escape and induce him to violate other rules, with the direct intention of getting him in disgrace and bringing down upon him the strong-armed authority and punishment. Under such influences he begins his prison life. Nor is this all. He now comes in contact with the contractor's foreman, who seeks not the comfort, much less the reform, of the convict. His only object is to see how much the man can do, how valuable he will probably be to the contractor, and what chances there are to gain anything by bringing him prohibited articles, to exchange for money, which he may have secreted somewhere, or for overwork. This system not infrequently engenders great deception on the part of the prisoner and the contractor's foreman or trade instructor. Differences often occur between these parties, and the prisoner is sure to get the worst of the contest. His evidence cannot be taken, while that of the foreman, be he ever so dishonest, must decide the case. Add to such great wrongs and abuses the constant change of officers, which must take place under our political rule, thus giving our

prisons for the most part keepers with little or no experience, and add the other fact that those political appointments are not always so honest as they should be, and it is difficult to imagine a school of vice that will more effectually drive from the prisoner every spark of honesty that may have lingered in his mind. The consequence is, that while I am glad to admit that some are reformed through the labor of the chaplains and other good influences, very many at the end of their sentences are turned out into the world worse than they entered; and it has often happened that they are again convicted and returned to prison dressed in the same clothes they wore on their discharge.

Now let us turn to the Irish system and see how the case stands and how matters work there. Let it be remembered, in the first place, that no convicted criminal can be sent to a convict prison in Ireland for a period less than five years—a period sufficiently protracted for reformatory processes to take full effect in all cases where this would be ever likely to happen.

The convict first enters Mountjoy prison, where he is obliged to undergo the discipline of separate confinement. He works alone. He is not often visited by any one except the governor, chaplain, and schoolmaster. During these probationary months he has ample time for meditation and penitence, but he is sustained and stimulated by hope, and hope to be realized through and only through his own exertion. He can shorten his period of separation by good conduct. This he knows full well, and he knows still further that when it is ended he will have further opportunity of bettering his condition by his own industry. This expectation makes him quiet, orderly, and submissive; and, accordingly, in the great majority of cases the period of separate incarceration is shortened. At its termination, he passes to Spike Island or Phillipstown. Here he labors in association, but is first under very strict surveillance. However, by industry, good conduct, and attention to school lessons he rises from class to class, gaining something

for himself at every advance in money, liberty, honor, and complete liberation. At length, by his own exertion and by that alone he becomes fit to become promoted to an intermediate prison. Here again he has greater freedom (indeed, he is under but little restraint) and the larger share of his own earnings, and for the first time is allowed to spend, at his own discretion, a small portion thereof in increasing his personal comforts. Here also the same stimulating and sustaining influence of hope acts upon him, and with still more power than before. By his own efforts he can lay up a little store against the day of liberation; and, what is still more important and inspiring, by his own efforts he can hasten the coming of that happy day. Besides, during his detention in the intermediate prison, he has, in a larger degree than before, the benefit of intellectual and moral culture, which, indeed, with a higher blessing of the religious care of zealous and faithful chaplains, he has enjoyed from the beginning of his imprisonment. A competent and devoted lecturer addresses to him, daily, instructive subjects, quite within the range of his own comprehension on a great variety of subjects, fitted to arouse his interest and awaken his faculties. And when years have thus gone by and the prisoner has passed successfully through all the stages of trial and imprisonment; when his relations with the wicked outer world have been broken; when he has acquired knowledge, suitable to his condition; when he has formed a habit of honest labor and tasted the sweetness of its reward; when he has laid up a little capital, hardly earned and greatly valued, which may sustain him for a time beyond the prison gate—after all this has been happily accomplished, he is, in general, enabled to obtain his discharge conditionally, one, two, three, sometimes even five years before his sentence has been completed. Nay, more than this, in very many cases, as a part of his final probation, if in the Smithfield intermediate prison, he is employed at large in the city of Dublin and its neighborhood on such service as the convict

directors deem suitable for him; or if in the intermediate prison at Lusk, he is seen discharging the ordinary rules of an agricultural laborer, without inclosure, confinement, or surveillance of any kind. In both situations it is found that he can be so trusted safely that neither the city messenger nor the Lusk workman ever dreams of escaping from a control which has no appearance of bolts and bars to make it effectual. And so the man passes from the prison to his place in society—not his old place, but a higher and better. He does not, however, as I have seen, make the passage abruptly or without reasonable preparation. He has been fitted for it by extended cellular separation, for associated labor, and then for the greater freedom and enlarged privileges of the intermediate prison, and that is, again, very often for actual liberty before he can claim that liberty as a right. Generally, indeed, he is liberated as the remuneration of the meritorious conduct prior to the expiration of the sentence; but his liberation is conditional, subject to be ended if he falls again, or even if found habitually associated with bad characters and without visible means of supporting himself. During the whole period of this conditional discharge he is under the eye of authority, and finds confirmation of his good purposes in the checks which this supervision holds upon him, and in the apprehension of the evil consequences which a return to crime will be sure to entail upon him, the dread of which is intensified by the knowledge that if reconvicted he can never again enjoy the opportunity of a similar course of training, nor be cheered by the hope of shortening his imprisonment, even to the extent of an hour, by any effort which he can make.

I respectfully ask the gentlemen of the executive committee, the members of the Legislature, and the people of the State to look upon these two pictures and say which of them is more pleasing, and then judge of the comparative excellence and value of the two systems by which they are severally produced.

APPENDIX V

Indeterminate Sentence Resolutions, International Prison Congress, Washington, D. C., October, 1910

First Section

"In the name of the first section, Mr. Gleispach reported on the first question and presented the following propositions:

"1. Proposed by the president of this section, Professor Prins:

" 'The Congress approves the scientific principle of the indeterminate sentence.'

"2. Proposed by Professor Prins and others:

" 'The indeterminate sentence should be applied to moral and mental defectives.'

"3. Proposed by Professor Gleispach of Austria, M. Vambéry of Hungary, and others, and amended by M. Castorkis of Greece:

" 'The indeterminate sentence should also be applied as an important part of the reformatory system to criminals, particularly young delinquents, who require reformation and whose offenses are due mainly to circumstances of an individual character.

" 'The introduction of this system should be conditioned upon the following suppositions:

" '1. That the prevailing notions of guilt and punishment are compatible with the principle of the indeterminate sentence.

"'2. That an individualized treatment of the offender be assured.

"'3. That the "prison board" be so constituted as to exclude all outside influences and consist of a commission made up of at least one representative of the magistracy, at least one representative of the prison administration, and at least one representative of medical science.

"'It is advisable to fix the maximum duration of the sentence only during such a period as it may be necessary because of the novelty of the institution and lack of experience with it.'

"After prolonged discussion resolutions were adopted by a large majority with the substitution of the term Board of Parole, or Conditional Release, for the words 'Prison Board.' It was also agreed that the word 'reformatory' should be used in the English version, and 'educative' in the French as expressing best the corresponding ideas in those languages."

(Bulletin No. 6, October 2–8, 1910, pp. 160, 161.)

APPENDIX VI

Centralization and Concentration of State Control[1]

For the sake of convenience I shall restate here in summary form the principal recommendations contained in this report.

I recommend a reorganization of the State Board of Charities. Instead of an unpaid board of twelve, appointed by the Governor from districts, with eight-year terms, the board selecting its own president and without qualifications specified in the law, the board should become a board of nine, of whom at least one should be a woman, and of whom three should be paid and six should not be paid, appointed by the Governor from the State at large, to serve during good behavior and removable by the Governor, on notice, for cause; special qualifications for membership to be described in the law, to the end that all the functional activities of the board should be discharged by persons with special training therefor; the three paid members to be the president of the board and the chairman of the two new bureaus within the board, namely, the Bureau for Mental Deficiency and the Bureau for Dependent Children, these three members to be designated as president and bureau chairmen, respectively, at time of appointment by the Governor. The duties to be imposed upon these three members will require that they give all their time to the

[1] Recommendations from the Report of Hon. Charles H. Strong, appointed by Governor Whitman to examine into the affairs of the State Board of Charities, the Fiscal Supervisor, and Certain Related Boards and Commissions, 1916.

service. I recommend specification in the statute of specific qualifications for certain members of the State Board of Charities, with special reference to the several classes of State institutions supervised by the board, such as a penologist, or one skilled in the reformation of the delinquent; an educationist; a physician with special knowledge of tubercular diseases; a physician who is a general practitioner, with special reference to hospitals and dispensaries; a lawyer; a physician with special training in psychiatry, to serve as chairman of the new Bureau for Mental Deficiency; a specialist in the care of children in private institutions and in foster homes, to serve as chairman of the new Bureau for Dependent Children; and one generally conversant with dependency and the several forms of poor relief.

I recommend that the board should be required to meet regularly at least twice a month, as in Massachusetts. Under the present law there is no requirement as to the number of meetings.

I recommend that new administrative and executive functions should be conferred, in order to convert an advisory board, weakened by loss of power, into an authoritative supervisory board. This should include the duties of the fiscal supervisor in fiscal affairs, surrendering to the comptroller such of said duties as relate solely to audit. Provision should be made for such institutional records as will exhibit functional costs. Without surrender of central control by the board over expenditures, provision should be made for modification of the procedure of estimate and allotment so that the institutions may work more smoothly and with greater initiative. Other new functions should be the supervision of purchase under joint contract and the review of building plans for the State institutions. These and other duties of an administrative or executive character should be imposed upon the president of the board in the belief that efficiency in matters administrative calls for a one-man service. Upon him also would fall the

responsibility for executing the plans of the board with respect to institutional development; for promoting new institutions after legislative authorization by the acquisition of sites and buildings within the appropriations that are provided; for developing institutional industries on the farm and in the shop, to the end that the institutional service may be the more economically administered; and to obtain adequate appropriations for extending and improving the inspections service over public and private institutions, as contemplated in the constitution and the laws.

Pending the adoption of such new constitutional provision as will permit the establishment of an independent State department for the supervision of the mentally defective, known generally as the feeble-minded, I *recommend* the establishment of a new bureau in the State Board of Charities, to be known as the Bureau for Mental Deficiency, the chairman of which is to be one of the paid members of the board, and who must be a physician with special training in psychiatry, and associated with whom is to be a new unpaid advisory council, named by the chairman and approved by the State board.

In the State Hospital Commission, the State has made independent provision for the supervision of the insane, who furnish no graver problem than do the mentally defective.

I recommend the restoration to the State Board of Charities of the power to review building plans for almshouses in New York City, this power having been taken away by the Legislature in 1913 and placed in the Board of Estimate and Apportionment. I perceive no adequate reason for the exception of New York City from the procedure obtaining over the remainder of the State.

I recommend an express grant of power to the State Board of Charities to adopt rules and regulations for the reception and retention of inmates in State charitable institutions, subject to the laws of the State. This power the board now possesses with respect to private institutions.

I recommend continued executive approval of the report of the Senate Committee on Civil Service and writing into the law standards of compensation for institutional service.

I recommend prompt provision for a new institution for defective delinquents.

I recommend for adult female delinquents care in public institutions exclusively.

I recommend periodic conferences under statutory regulation among the heads of the three great institutional groups, charities, hospitals for the insane, and prisons, for the purpose of securing uniformity in salary schedules, as far as may be practicable, and for the purpose of considering what, if anything, could advantageously be bought by joint purchase for all institutions.

I recommend careful revision of the State charities law and the poor law, and have indicated herein certain definite results that would be accomplished thereby; but this revision should await the determination by the Executive and the Legislature as to what, if any, new form of State administration shall be adopted.

I recommend such extension as there may be under the existing constitution of the visitational power of the State Board of Charities over private charitable institutions.

I recommend the establishment of a new bureau in the State Board of Charities, to be known as the Bureau for Dependent Children, the chairman of which is to be one of the paid members of the board and who must possess special training in the care of children in private institutions and in foster homes. This bureau will, subject to the approval of the board, develop new and reasonable standards of child care in the institutions; promote the placing out of certain classes of children in the family home; make uniform the institution methods of placing out; adopt measures to lessen the mortality rate in foundling asylums, such as to reduce the number of surrenders of infants to the asylums by mothers who could be aided to care for their

children in their own homes; create and advance new measures of outdoor relief, in order to preserve for children their natural home; persistently stimulate, by publicity and otherwise, an increase in financial support for the institutions, both from the public treasury and the private benefactor, to enable the institutions to conform to reasonable standards of child care; and the chairman of this bureau will aid the president of the board in obtaining appropriations needed to meet the imperative demand for enlargement of the inspectorial staff of the board.

I recommend that the State Board of Charities be compelled by statute to issue, when warranted, its own affirmative certificates of compliance by private institutions with its rules and regulations, said certificates to be a prerequisite to payments to the institutions by the local disbursing officers.

I recommend repeal of the charter provision requiring, as a condition of payment to the private institutions, a certificate by the Department of Public Charities in the city of New York that the institutions have complied with the rules and regulations of the State Board of Charities; to the end that inspection by this department shall be permissible and not impliedly compulsory, as it now is, and that compulsory inspection shall continue to be imposed upon the State board and upon that board alone.

I recommend the abolition of the office of the Fiscal Supervisor of State Charities, established under an article in the State charities law entitled "Regulations of State Charitable Institutions."

I recommend the abolition of the Salary Classification Commission.

I recommend the abolition of the Building Improvement Commission.

I recommend the abolition of the Commission on Sites, Grounds, and Buildings.

I recommend the abolition of the Board of Examiners of Feeble-minded, Criminals, and Other Defectives. . . .

I favor the payment of adequate salaries to the president of the State board, to that member of the board who becomes chairman of the new Bureau for Mental Deficiency, and to that member of the board who becomes chairman of the new Bureau for Dependent Children. I favor a continuation of the present nominal compensation for the remaining members of the board. In other words, I suggest three paid members and six unpaid members. I suggest the sum of $7,500 annual salary for the president of the board, and the sum of $6,000 annual salary for the chairman of the Bureau for Mental Deficiency, and the sum of $5,000 annual salary for the chairman of the Bureau for Dependent Children, and in each case the sum of $1,200 per annum in lieu of his traveling and incidental expenses. Precedent for these salary suggestions is found in the fact that the chairman of the Hospital Commission receives $7,500, and the other two members $5,000 each, and each has $1,200 in lieu of his expenses. The Superintendent of Prisons has $6,000, the Commissioner of Health $8,000, and the six other members of the Public Health Council $1,000 each. The Fiscal Supervisor has $6,000.

I have already pointed out that the abolition of the office of Fiscal Supervisor would eliminate approximately $55,000 from the annual salary roll of the State.

The services required of the president of the State board, and the chairmen of the two new bureaus will demand their entire time. There must, of course, be compensation for such service. At the rates suggested, the element of public devotion must necessarily enter to some extent. I am a firm believer in the high quality of volunteer public service that comes to the State and the municipality from those who would not otherwise accept office. On the other hand, there are men and women in the State who are too poor to give gratuitously to the State their services, which may be the best and most expert that the Governor can find.

With a board made up as I have suggested, I see no

likelihood that it could be called a "one-man board," except in matters administrative and executive, as to which the plan is to make it a "one-man board." In the past, the by-laws of the board have imposed such powers and duties upon the paid secretary, efficient man that he was, that it was generally regarded as a "one-man board." The secretary was required to reside in Albany to aid the commissioners in the performance of their duties, to complete the text of the annual report, to be the medium of official communications by the board, and to supervise all branches of the board's work. A member of the board testified that the secretary advised the board as to its policies and that his advice was usually followed, and the president of the board called him "the executive officer of the board." If one man is to lead the board, it would seem to me that it would be better that he should be the salaried president, giving all his time to the work and responsible directly to the Governor rather than that he should be a paid secretary, responsible to the board. But beside the paid president of the board, the plan calls for two other paid members in case it should become necessary to divide upon any question. In explaining why the board has failed to do what it should have done in putting newly authorized State institutions on their feet, a member of the board testified that he thought such work would take all the time of a "paid man"; and so it will, or much of it.

There has been much genuine alarm in the present State board over any possibility of payment to them of substantial salaries. The reason given by them is that politicians will seek the office. In the first place, I am going to assume that the Executive will make the best appointments possible. I know of no other way to draft a plan of organization of any department of government. In the next place, if the statute is made to specify the qualifications that I have suggested, it would be difficult to fill the places with incompetents. Finally, I call attention to the related departments of health, hospitals for the

insane, and the prisons. Has politics crept into the office of the Commissioner of Health, or the Public Health Council? They are salaried offices. Has it crept into the department of the Hospital Commission? They are salaried offices. Has it kept out of the prisons? The Prison Commission is unsalaried.

In the constitutional convention of 1894 an unsuccessful effort was made to write into the constitution the provision that members of the State Board of Charities should not be paid. The constitution left it open to the Legislature to provide compensation, although it was specifically warned in the debate that the Legislature would do so and that evils would flow from it.

The State Board of Charities built its case for an unsalaried board upon the proposition that in 1867 it was modeled on the lines of what the president of the board called "the great Lunacy Board in England." He testified that "the marked features of this were a high grade of membership serving without salary and freedom from political influence." Another member of the board said:

> There were three ideas that were impressed upon me by these original men. The first was to remove the charities as far as possible from political influence, and to do that we must have unsalaried boards, both of local boards of management and of the supervising board; and that is the way the great lunacy commission of England was appointed, which was regarded as the most useful commission ever created.

The State board is strangely in error about the English Lunacy Board. A great board it certainly was and has been ever since it was established in 1845. But salaries and liberal salaries have been paid its members ever since 1845. In the course of extended reading on the work of this English board, I have never heard that it was affected by political or partisan considerations. From 1845 to 1911 the board consisted of eleven commissioners, three of whom were medical practitioners, and three of whom were bar-

risters of at least ten years' standing at the bar. These six commissioners were paid salaries of £1,500 each, per annum, and in addition their traveling and other expenses. The other commissioners were not paid. Their terms were for good behavior and they were named at large. The original commissioners, headed by Lord Ashley, were named in the act. In 1911 the board was increased to a membership of thirteen. In 1913, as a result of four years' deliberation of the Royal Commission on Mental Deficiency, there was enacted the Mental Deficiency Act. A board of fifteen members at large was provided, to serve at the pleasure of the King, of whom not more than twelve are paid. Of the paid commissioners, four must be practising barristers or solicitors of at least five years' standing, and at least one of the unpaid and one of the paid commissioners must be a woman. The chairman of the board, named by the Secretary of State, receives not more than £1,800 per annum, and the other paid members £1,500 each per annum. The board has visitational, supervisory, and broad administrative powers, including the power to administer grants of money made by Parliament under the act.

The English Charities Commission, which was established in 1853, but occupies a different field from any that is familiar to State boards of charities in this country, consists of at least four commissioners appointed at large and serving during good behavior, of whom the chief commissioner receives £1,500 per annum, and the other paid commissioners £1,200 per annum each.

It would appear, therefore, that if the State Board of Charities is to be built upon the lines of the great English Lunacy Board, it should consist of a membership at large, at least two of whom must be women, and nearly three-fourths of whom must be fully compensated for all their time, instead of a district board without compensation, as is the present State board, or a board of which only one-third of the members are compensated, as is recommended in this report.

APPENDIX VII

Plan for the Rational Treatment of Women Convicted in the Courts of the County of New York (or City)

Dr. Katharine Bement Davis, Superintendent Reformatory for Women, Bedford Hills, New York

THE PLAN PROPOSES

First. The abolition of the women's department in the County Penitentiary and in the City Workhouse.

Second. Discontinuing the imposition of fines in all criminal cases.

Third. The use of the city prisons for prisoners awaiting trial only.

Fourth. The establishment by the county (or city) of a clearing-house to be known as the New York Criminalistic Institute.

Fifth. The establishment by the county (or city) of the institution outlined as number VII, Section 2.

Sixth. The rational utilization of existing State institutions for specific classes of women criminals or defectives.

Seventh. A more intelligent basis for the probation system.

The plan does not include the use of the various private reformatory institutions of New York County and neighborhood.

There are many arguments in favor of giving the care of adult lawbreakers directly to the State or municipal

authorities. Private agencies can then devote their activities to prevention and to the care of girls who are not yet lawbreakers or who are under sixteen years of age.

Section 1

Purpose of the New York Criminalistic Institute

It will be the purpose of this institution to study the women criminals convicted in any criminal court of New York County (or City) in accordance with the plans outlined in Section 3 and to recommend their sentence to one of the co-operating institutions described in Section 2.

Section 2

Co-operating Institutions

I. Probation under the women probation officers of the Court of General Sessions, the Court of Special Sessions, and the city magistrates' courts of New York County (or City).

Whenever the results of the study of a woman committed to the Criminalistic Institute showed that she was a proper subject for probation, the institute would return her to the convicting court with its report. This report would show that the young woman was physically sound, mentally normal, and that her social history gave promise of a good record on probation. Under our present system so much of the time of the probation officers must be given to investigation that they cannot give adequate care to the women under their charge. Moreover, their investigations must often be hurriedly made and reports rendered within twenty-four or forty-eight hours. Under our plan, the investigators would be the trained workers of the institute, with sufficient time at their command to get to the bottom of each case. The women probation officers of the various

courts would thus be set free for their proper duties of supervision.

II. The Letchworth Village for the Feeble-Minded and Epileptic.—This institution is already under way and will doubtless be ready to receive women patients by the time this plan is adopted. All women reported to be either feeble-minded or epileptic should be committed directly to custodial care under proper laws to the Letchworth Village.

III. Matteawan State Asylum for the Insane. Women's Department.—An appreciable number of women are insane at the time of commitment, but not sufficiently so to be detected during their short stay in court; or symptoms develop soon after their commitment. In ten years at the State Reformatory for Women at Bedford, the percentage of insane has been 2.8. On recommendation of alienists of the institute such women would be sent direct to Matteawan.

IV. The State Farm for Habitual Women Offenders at Niverville.—For habitual petty offenders who have been convicted five times in two consecutive years. By the methods of the institute it would be much easier to identify these women and be certain of their commitment for an indeterminate sentence, in accordance with the laws relating to commitments to this institution.

V. State Reformatory for Women at Bedford, New York.—For women between the ages of sixteen and thirty-nine who are found guilty of any offenses except murder in the first and second degrees and second felonies, and who were found to be of sound mind, and deemed capable of reform. If only such were committed it would make it possible for the institution to devote its whole time to educational and reformatory work proper.

VI. Auburn State Prison. Women's Department.—Under the present laws all women guilty of felony, who are over thirty years of age, all guilty of a second felony, and women of all ages guilty of felony, who were

declared by the institute to be incorrigible, would be sentenced to Auburn.

If we were working out a plan for the State rather than for the county (or city) of New York, there would be a question whether it were not wise, provided a custodial institution for incorrigible women criminals were established, to abolish altogether the women's department at Auburn, and distribute the women among the various other institutions; not according to offense committed, but, solely, in accordance with their character and needs.

VII. A new county (or city) institution to replace the women's departments in the City Workhouse and the County Penitentiary, but on reformatory lines.

Located outside of the city and to which women should be sentenced on an indeterminate sentence. All misdemeanants over thirty years of age, petty offenders over thirty, but who have not been convicted five times in any two consecutive years, and all women not clearly belonging to any of the other classes would be committed to this institution.

In connection with this institution there should be a colony for the criminal tubercular, with adequate provision for their isolation and cure where possible. There is no State hospital for criminal tubercular women. If this institution is provided by the city of New York, possibly provisions could be made to receive patients from the State institutions on a payment for maintenance. There would hardly be enough criminal tubercular women to warrant a separate institution, nor does it seem desirable to place the criminal tubercular among the tubercular in our city hospital. Expenses of management and supervision could be lessened by having a colony for tubercular patients in connection with another institution, but sufficiently isolated not to be a source of danger.

VIII. The logical outcome of this plan would be a State custodial asylum, preferably a farm colony, for permanent custodial care of proven incorrigible criminals of

sound mind, whether guilty of felony, misdemeanor, or petty offenses.

IX. Finally the adoption of this plan should be accompanied by an effort to extend the use of the complete indeterminate sentence, and to lengthen the period of parole supervision, when necessary, for those paroled from any of the co-operating institutions.

Section 3

The New York Criminalistic Institute

Board of Managers.—The Board of Managers of the New York Criminalistic Institute shall consist of seven members, of whom two at least shall be women, appointed one each year, to serve for seven years; except that at the opening of the institution one member shall be appointed for one year, one for two years, etc.

They shall be appointed by the Mayor of New York City, from a list of five names submitted annually, by a nominating board consisting of seven (or nine) members constituted as follows:

First. One judge from among the judges of the Court of General Sessions (and one from among the judges of the county courts of the three other counties).

Second. The chief justice of the Court of Special Sessions.

Third. The chief city magistrate of one (or both) divisions.

Fourth. The president (secretary or one member) of the State Charities Aid Association.

Fifth. The president (secretary or one member) of the committee on criminal courts of the Charity Organization Society.

Sixth. The president (secretary or one member) of the Women's Prison Association of New York City.

Seventh. The president (secretary or one member) of the

New York branch of the American Institute of Criminal Law and Criminology.

NOTE.—If the Criminalistic Institute is to be a success it must be free from politics. The members of the board should be men and women who have the entire confidence of the community and who are fitted for their positions by their broad knowledge and experience of matters pertaining to criminology and penology.

The judges of the various criminal courts would be vitally interested in the matter and would undoubtedly choose as their nominees persons who would make contributions from the legal side. The State Charities Aid Association would represent the philanthropy of New York City and the interest and advice which comes from the people at large. The committee on criminal courts would be expected to supply the prod which would keep everybody else at work. The American Institute of Criminology should be in a position to assist on the theoretical side of the work and the Women's Prison Association would represent a body of women who have been active in securing the establishment of the New York State Reformatory for Women and the State Farm for habitual petty offenders. They would stand for the women of the community. Should the plan be worked out for the city as a whole, the other counties would have representation on this board.

The board of managers would choose the superintendent and the consulting staff. The superintendent would appoint all resident officers subject to the approval of the board of managers and the civil-service rules of New York City.

NOTE.—All appointments, including the superintendent, should be made subject to civil-service rules, but the New York Civil Service Board should arrange special examinations, conducted by special examiners secured for the purpose, who should test not only the theoretical knowledge,

but the practical ability of the candidates for the various positions. It would be wisest to open these examinations to residents of any part of the country.

Resident Staff:

1. Superintendent.
2. Assistant superintendent. (Disciplinary officer.)
3. Resident physician.
4. Bacteriologist.
5. Psychologist.
6. Director of industries or occupations.
7. Investigating teacher.
8. Social investigator.
9. Head nurse.

All above officers to be women. Matrons, office staff, etc., as necessary.

Consulting Staff—(Men and Women):

1. Alienists.
2. Nerve specialists.
3. Surgeon.
4. Ear, nose, and throat specialists.
5. Dentists.
6. Oculists.
7. Any other specialists found necessary.

Religious interests provided for by visiting chaplains of the Protestant, Catholic, and Hebrew faiths.

Section 4

The Methods of the New York Criminalistic Institute

Commitment.—Every woman convicted in the county (or city) in the Court of General Sessions (or county courts), Supreme Court, Special Sessions, or in the city magistrates' courts, shall, before final sentence is pro-

nounced, be committed to the New York Criminalistic Institute for a period of not less than one month or more than three months for an examination into her history, her physical, mental, and moral condition.

If for special reasons the authorities of the Criminalistic Institute are not able to report at the end of three months and desire to retain the patient for a longer period of study, upon their request the convicting judge may grant an extension of time for further investigation.

At any time after the end of the first month the superintendent may report the findings of the institute in such form as may be determined upon later for the information of the convicting judge. These reports must be made at the expiration of the three months unless extension of time has been granted by the committing judge. The report must include the most complete attainable information on the following points:

I. Social History:

1. Birthplace—Length of time in United States.
2. Length of time in New York City and State.
3. Occupation for the last two years, wages, employers' names and addresses.
4. Religion, church member, confirmed, of what church, pastor's name.
5. Married or single. If married, when, where, by whom, husband's name, birthplace, occupation, address, criminal record, physical condition, divorced, widow, separated from husband.
6. Children, how many? Sex, age, legitimate or illegitimate, present whereabouts. Family history.
7. (a) Parentage, nationality, color, length of time in country, occupation of each parent.
   (b) Heredity. Father, mother, brothers, sisters, father's mother and father—mother's mother and father.
   1. Alcoholic.
   2. Criminal.
   3. Epileptic.
   4. Feeble-minded.

5. Insane.
6. Tubercular.
7. Venereal diseases.
8. Parents or grandparents nearly related.

NOTE.—Facts under headings from one to seven are to be obtained from examination of patient by superintendent and corroborated by investigation of social workers. The above outline is not intended to be complete, but merely suggestive of the character of the inquiries to be made.

II. EDUCATION.—Report of investigating teacher as to present attainments in reading, writing, and arithmetic, general intelligence, where educated, grade reached, etc. Special form of report to be determined upon later.

III. INDUSTRIAL EFFICIENCY.—Report of previous occupations in form to be prescribed later. To include results of tests as to the intelligent use of the hands, the history of past industrial occupations, reports from employers, where possible, as to efficiency, etc., etc.

IV. PHYSICAL CONDITION.—A report made by the resident physician, based upon examination by the resident physician, bacteriologist, and special physicians. Reports to be made in form hereafter to be determined upon, and to include such points as general health, history of individual and of family.

(Outside investigations on this point may be made by the social investigator, under the direction of the physician.)

Deformities.—Are they such as to affect mental condition or economic efficiency.

Organic troubles:—heart, kidneys, etc.; lungs, tubercular, etc
Venereal diseases.
Abnormalities:—sexual perverts, etc
Eyes and other senses.
Epilepsy.
Nervous disorders, St. Vitus's dance, etc.
Alcoholism.

Drug habits.
Use of tobacco.
Scars, tattoo marks, etc.

NOTE.—Treatment of venereal diseases.

When the physical examination and laboratory tests show the presence of venereal disease, the patient will be isolated in the institution hospital for proper treatment. As soon as the disease is so far under control as not to afford danger of contagion to fellow inmates, provided proper sanitary precautions are observed, the case, if otherwise ready, will be reported to the committing judge in the regular order. If there is danger of contagion at the end of three months the physicians may ask the judges for extension of time on these grounds.

V. MENTAL CONDITION.

A. If found insane, the resident physician and consulting alienists will make special reports as soon as the fact is determined with certainty.

B. If found feeble-minded, a report from resident physician and psychologist, as to extent and character of feeble-mindedness, is to be presented. This can include data furnished by investigating teacher, director of occupations and social investigator.

NOTE.—The specific character of the above reports to be worked out by specialists.

VI. The superintendent shall conclude the report with a specific recommendation as a result of the study of the patient as a whole. This shall state whether in the judgment of the specialists making the study the patient, if found mentally and physically sound, can be safely put on probation, whether the patient is a fit subject for reformatory treatment, whether she is believed to be incapable of benefiting by reformatory treatment, whether she has been found to be an habitual petty offender or on account

of mental or physical defects is a candidate for a special institution.

Section 5

Sentence

As soon as the report is received from the superintendent of the New York Criminalistic Institute on the social history, physical, moral, and mental condition of the convicted woman, the judge shall then commit her to the proper institution in accordance with its laws, or place her upon probation in the care of the proper probation officer. If when placed on probation the woman afterward violates the conditions of probation, the probation officer shall return her to the court and the judge shall thereupon either return her to the Criminalistic Institute for further study or commit her to a reformatory institution.

Note.—If, under the proposed plan, definite sentences are in any case retained, or an indefinite sentence with minimum and maximum term imposed, in the discretion of the judge the length of time that the patient remains in the New York Criminalistic Institute may be included as part of the sentence.

Section 6

Organization of the New York Criminalistic Institute

I. Location.—The institute should be located in the immediate neighborhood of New York, where it is easy of access, but where it may have sufficient land (at least twenty-five or thirty acres) to permit of the erection of an institution on the cottage plan and giving sufficient grounds for proper outdoor exercise of the patients.

II. BUILDINGS.—The necessary buildings would consist of:

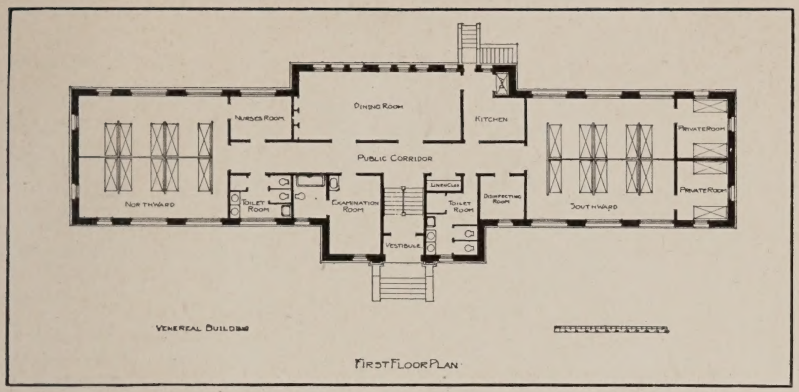
1. An administration building.
2. A reception house capable of accommodating as many patients as would be received in any two weeks.
3. A hospital, planned to accommodate acute cases; those which should be under special treatment, and under the immediate eye of the physicians.
4. An infirmary, capable of accommodating from 40 to 50 patients, where women with venereal diseases should be isolated.
5. One cottage with a capacity of from 35 to 50 in which girls should be placed from the reception house, whose social record would seem to show that they were fitted for probation.
   They should be separated from the other women in order that their morals might not be further impaired.
6. As many cottages accommodating 50 each, as should be necessary to take care of women committed from New York County (or City) in any three consecutive months. The cottages as well as all buildings with the exception of the hospital in which patients were quartered should have single rooms rather than dormitories, and should include suitable rooms for occupying the women with some task during a considerable portion of the day.
7. Disciplinary building for the isolation of refractory cases; an improved copy of the one at Bedford.
8. Power house, steam laundry, storage buildings, etc., as necessary.

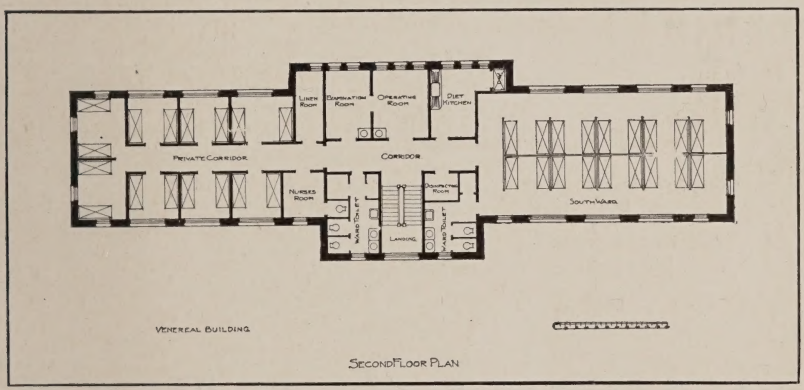
III. GENERAL PLAN OF TREATMENT.—All patients should be received at the reception house, which will be suitably planned to admit of the first examination, bath, and clothing of the patients in rooms set aside for this purpose. The patient should be immediately examined by the resident physician. She should receive a bath, clean clothes, her hair should be treated when necessary, and the physician should decide whether she could be taken at once to a room in the reception house or whether it was a case for the hospital. In case of the undoubted presence

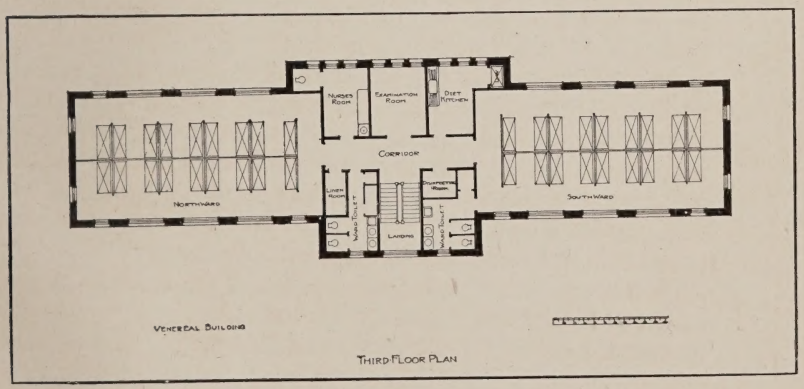
of a venereal disease, she should be sent at once to the infirmary. If a venereal disease is suspected, she should be sent to the hospital until the proper test is made. In case tuberculosis is suspected, she should be sent to an isolated room in the hospital. Should there be no indication of any disease or any suspicion of any, on the preliminary examination, she should be placed in one of the rooms in the reception house. All patients, unless sooner transferred to an insane asylum or other institution for defectives, should remain in quarantine in the reception house for two weeks. As soon as practicable, after entrance, the superintendent should take, first, as complete a history as could be obtained from the patient. The superintendent should then assign the case to one of the social investigators, who should make as thorough an outside investigation as possible.

During the two weeks' stay in the reception house the patient should be examined by the special physicians on the consulting staff. At the end of two weeks, if pronounced physically fit, she should be assigned to one of the cottages. During the two weeks in the reception house the patient would remain by herself. She should not have freedom of intercourse with the other inmates. It is possible that it would be wisest for her to take her meals in her own room. After transfer to the cottage the patient would be studied by the psychologist, by the examining teacher, and by the director of occupations. Workrooms should be provided and an arrangement should be made whereby employment would be given the women, at least six hours a day, three in the morning and three in the afternoon. Possibly arrangements could be made whereby some simple industry could be introduced, whose product would be of use in the city departments. The making of envelopes, document cases, etc., is suggested as a possibility.

One hour out of doors should be the minimum. A certain number of the physically fit should be assigned to the domestic work of the institution and for service in the steam







FLOOR PLANS, BUILDING FOR TREATMENT OF VENEREAL DISEASES, RIVERSIDE HOSPITAL, NORTH BROTHER ISLAND, NEW YORK CITY

laundry. All the clothing, bed and table linen, etc., used in the institution could be made by the inmates. They should never in any building be allowed to associate with each other, unless chaperoned by an officer. As there would be sufficient cottages, the superintendent should classify, so far as was possible, placing the older and obviously more hardened women by themselves.

WORKS, ETC., QUOTED AND REFERRED TO

Administration of Justice in the Modern City, Roscoe Pound, 38.
American Notes, Charles Dickens, 145, 146.
American Prison Association Convention, Report of, 22, 65, 94.
American Sociological Society, Publications of, 265.
A New Scale of Mental and Physical Measurement for Delinquents and Some of Its Uses, Mrs. Helen Thompson Wooley, 123.
Are the Disciplinary Cases in a Reformatory Identical with Pyschological Cases? Dr. Alberta S. B. Guibord, 241.
Bureau of Attendance, Report of, 276.
City Where Crime is Play, The, Edward M. Barrows, 71, 279.
Commission A of American Institute of Criminal Law and Criminology, Special Report of, 107.
Commission of Prison Reform of State of New York, Preliminary Report of, 112.
Commissioners of Public Charities and Correction, New York, Annual Report, 18.
Committee on Probation and Parole, Report of, 139, 163, 168.
Committee on School Inquiry, City of New York, Final Report, 266.
Commonwealth *vs.* Hitchings, 132.
Constitutional Limitations, Cooley, 132.
Criminology, Encyclopedia Britannica, 11th ed., 24.
Criminology from the Standpoint of a Psychiatrist, Dr. Morris J. Karpas, 70, 73.
Director of Attendance, City of New York, 1915, First Annual Report of, 259.
Disease and Crime, Harry Olson, 110.
English Convict, The, Dr. Charles Goring, 171.
English Convict, The, Review of, William White, 171.
European Police Systems, Raymond B. Fosdick, 287, 288.
Evolution of Industrial Society, R. T. Ely, 5.

Fifty Years of Prison Service, Z. R. Brockway, 16, 20, 199, 200, 201, 202, 203.
General View of English Law, Sir James Stephen, 12, 13.
George Junior Republic: Its History and Ideals, W. R. George, 231.
Governors of the Almshouse, Report of, 16.
History of English Law, Pollock and Maitland, 12, 13.
History of Penal Methods, George Ives, 13.
House of Henry Street, The, Lilian D. Wald, 270.
Individual Delinquent, The, William Healy, M.D., 24, 171.
Inheritance as a Factor in Criminology, Spaulding and Healy, 24, 109.
Inspectors of the Eastern Penitentiary of Pennsylvania, Report of, 145.
Inspectors of Prisons for the Home District of London, Report of, 148, 152, 153.
"Jury and Grand Jury," Enclyclopedia Britannica, 11th ed., 12.
Jury System in Ontario, William R. Riddell, 34.
"Juvenile Delinquency," Encyclopedia Britannica, 11th ed., 17.
Laboratory of Social Hygiene, Recommendations of, 64.
Laws of 1915, Chap. 579, 129.
Lawyer Citizen, His Enlarging Responsibilities, Samuel Untermyer, 41.
Matter of Bayard, 132.
Medico-Psychological Work in Courts, 111.
Men We Lodge, The, 60, 67.
Mutual Loan Co. *vs.* Martel, 132.
Operation of the Indeterminate Sentence and the Parole Law, Amos W. Butler, 132.
Outlines of Criminal Law, Kenny, 54.
Penal Law of State of New York, 88, 237.
People *ex rel.* Alexander *vs.* Warden, 132.
People *ex rel.* Bettram *vs.* Flynn, 132.
People *ex rel.* Brown *vs.* Townsend, 50.
People *ex rel.* Clarke *vs.* Warden, 132.
People *ex rel.* Sullivan *vs.* Blum, 50.
People *vs.* Adams, 132.
People *vs.* Madden, 132.
People *vs.* O'Malley, 132.
People *vs.* Schultz, 132.
People's Institute of the City of New York, Annual Report, 277.

Practical Application of Psychology to the Problems of the Clearing-House, The, 106.
Principles of Constitutional Law, Cooley, 132.
"Prisons," Encyclopedia Britannica, 11th ed., 18.
Promotion, Non-Promotion, and Part Time, Report, F. P. Bachman, 275.
Punishment and Reformation, F. A. Wines, 13, 16, 18, 19, 156, 157, 163.
Research on the Proportion of Mental Defectives among Delinquents, Augusta F. Bronner, 111.
Social Control, E. A. Ross, 7.
Social Insurance: A Problem of Social Reform, Henry R. Seager, 268.
State *vs.* Whittaker, 132.
Travels in North America in the Years 1827 and 1828, Capt. Basil Hall, 143.
Visit to the Philadelphia Prison, A, Robert J. Turnbull, 198.
Woods *vs.* State, 132.

AUTHORS, ETC., QUOTED AND REFERRED TO

Bachman, F. P., 275.
Barrows, Edward M., 71, 279.
Brockway, Z. R., 16, 20, 199, 200, 201, 202, 203.
Bronner, Augusta F., 111.
Butler, Amos W., 133, 134.
Clinton, Gov. DeWitt, 16.
Cooley, 132.
Crawford and Whitworth, 148, 152, 153.
Davis, Dr. Katharine B., 139, 163, 168.
Derrick, Calvin, 163.
Dickens, Charles, 145, 146.
Ely, R. T., 4, 5.
Fernald, Mabel, M.D., 106.
Fosdick, Raymond B., 287, 288.
George, W. R., 231.
Goldberger, Dr. I. H., 276.
Goring, Dr. Charles, 171.
Griffiths, Major, 14, 15.
Guibord, Dr. Alberta S. B., 241.
Hall, Capt. Basil, 143.

Healy, William, M.D., 24, 107, 109, 111, 171.
Hotchkiss, William H., 61.
Ives, George, 13.
Karpas, Dr. Morris J., 70, 73.
Kenny, 54.
Monroe, Prof. Paul, 264.
Olson, Harry, 110.
Osborne, Thomas, 166.
Pollock and Maitland, 12, 13.
Pound, Roscoe, 38.
Riddell, William R., 34.
Ross, E. A., 7.
Seager, Henry R., 268.
Spaulding, Edith, M.D., 24, 109.
Stephen, Sir James, 12, 13.
Turnbull, Robert J., 198.
Untermyer, Samuel, 41.
Wald, Lilian D., 270.
White, William, 171.
Wines, F. A., 13, 16, 18, 19, 156, 157, 163.
Wooley, Helen, 123.

INDEX

A

Abolition of contract system, 201.
Accounts, 246.
Age group, 77.
Aged, the, 68.
Aim of institution should be to train inmate, 121.
Aims for which punishment inflicted numerous, 53.
Appeals from court decisions, 41.
Auburn, or silent, system, 142; one of chief ends of, 152.

B

Bases of classification of offender, 59.
Benevolent despotic system of government, 155.
Book-school training, 212.
Boys' gangs, 280.
Bread-lines, 308.

C

Calendars, congestion of, 45.
Capable and hopeful offender, the, 69.
Capable and wilfully delinquent offender, 69.
Casual and environmental or social offender, 70.
Centralized identification and other records, 310.
Changes in conditions affecting the home must be recognized, 257.
Character and control, 68.
Characteristics of born criminal as defined by Lombroso, 23.
Chief difficulty with organized society's treatment of offender, 13.
Child-welfare work, 283.
Children's Court, 34.
Church, the, a factor in social evolution, 255.
City Magistrates' Court, 32.
Classifications based on studies of individual offender, 171; blood and other tests, 243; and sanitation in institutions, 243.
Clothing, 241.
Common-sense ideas regarding the offender, 7.
Community center and playground development, 281.
Compulsion, factor to be considered in securing school attendance, 274.
Conduct and work records, 220.
Congested calendars and prisons, 45; conditions, evil influences of, 259.
Connecticut State Prison, 19.
Connection between poor health and criminality, 282.
Consolidation and centralization of records, 101.
Constitutional or habitual offender, 72.
Contagious diseases, 61.
Co-operative plan of part-time work and part-time study, 272.
Corporal punishment, substitution of solitary confinement for, 234.

Cottage system for juvenile offenders, 17.
Court, the, society's bulwark, 31.
Court action, value in maintaining discipline, 239, 240.
Court of General Sessions, 34.
Court of Special Sessions, 33; jurisdiction of, 33; trials in, 34.
Courtis tests in arithmetic, 273.
Criminal courts, 32.
Criminal procedure in United States, 32.
Criminal term of Supreme Court, 34.
Criminologists, the, 22; doubts as to correctness of findings of, 24.
Crofton system of government, 155, 156.

D

Death penalty, gradual abolition of, 53.
Defective teeth, 61.
Defects in social eye, 12.
Definite sentence, failure of, 115.
Degenerates and perverts, 74.
Delinquency, nature and cause of, 70.
Development of government and discipline in correctional institutions, 140, 141.
Dietary established by Department of Correction, 245.
Different purposes of punishment, 11.
Difficulty attending institutional training, 208.
Direct connection between play and crime, 276, 277.
Disadvantages of division of government into departments, 44.
Discipline, difference in opinions as to methods of, 233.
Discipline, question of, 20; separate, or Philadelphia, system of, 142; silent, or Auburn, system of, 142; benevolent despotic, 155; Crofton, 155, 156; mixed benevolent despotic and Hamiltonian Republican, 161; Elmira system of, 157; mixed autocratic and benevolently despotic, 159; Jeffersonian Democratic system of, 166.

E

Easy-going methods of inferior courts, effect of, 48.
Education, problem of, one of training and adjustment, 273.
Elmira system of discipline, 157.
Employment, 311.
Engineering School of University of Cincinnati, 272.
Espionage as a means of preventing moral laxity, 301.
Establishment of guilt or innocence, 32.
Evil influence of congested conditions, 259.
Extension of probation system, 88.

F

Facts concerning offender, importance of obtaining, 110.
Failure of the definite sentence, 115; high percentage of recidivism, indication of, 118.
Farm colony system, 203, 204.
Faulty administration of courts, 42.
Faulty diagnosis of offender, 57.
Faulty identification system key to many alibis, 51.
Finger-print system, opposition to, 47, 48, 117, 118.
Food preparation, 244.
Forces inimical to development of offender, 286.
Ford plant in Detroit, test system at, 105.
Free Library Commission in Wisconsin, 281.
Frequent appeals from court decisions, 41.
Fundamental social forces, 253.

G

George Junior Republic, 184.
Government divided against itself, 44.
Gradual abolition of death penalty, 53.
Great Meadow Prison at Comstock, N. Y., 160, 188.
Grounds of person's right not to be witness against himself, 49.
Grouping system, the, 224, 226; modification of, in workhouse, 228; modification of, in penitentiary, 229; possibilities of abuse of, 229.
Guelph Prison Farm, Guelph, Ontario, 188.

H

Hair-cuts, 242.
Handicapped, the physically, 59; the mentally, 61.
Hard-labor sentences impractical, 211.
Hart's Island Industrial School, 17.
Health and sanitation, 282.
Henry Street Settlement scholarships, 270.
Hereditary influence, 108.
Home, the, 257.
Hospital of St. Michael at Rome, 16.
House of Refuge, New York State, 17.
Hydrotherapy, application of, 159.

I

Identification records, protection derived from, 51.
Idle, the habitually, 67.
Importance of providing training of the right sort, 269.
Imposition of sentence, 51.
In the educational and business worlds, 102.
Inaccessibility of records, 44, 45, 91.
Incapable and unfit offender, the, 70.
Indeterminate sentence plan, 114; features of, 119, 126; superiority of, over definite sentence, 121; weaknesses of, 127; objections to, 128; room for material improvement in, 130; statistics in State of Indiana regarding, 134; advantages of, for those who wish to acquire training, 131; credit balance in favor of, 136.
Individual, the study of the, 102.
Industrial training, 207.
Inebriate, the, 66.
Inebriety one of chief sources of poverty, 66.
Information court should have regarding offender, 55, 91; to be obtained from prisoner on entering institution, 218.
"Informers" a necessary evil, 296.
Inmate government, supervision of, must be invisible to be effective, 173.
Inmate should be cured of disease, 120; fitted to earn his own living, 121.
Inmates' court at Sing Sing, 235, 236.
Institutional government, kinds of, 139; management, 216; organization and treatment, 174; procedure, 233; structure, 178.
Institutions, types of, 176, 181.
Investigation of bread-lines, 308; of 100 criminals in Indiana State Prison, 64; of 400 women in Massachusetts Reformatory, 64; of 100 women in New York City Workhouse in 1914, 63.
Is probation punishment? 85.
Isolated confinement, 195.

J

Jeffersonian Democratic system of government, 166.

Justice in inferior court depends entirely on individual judges, 37.

L

Lack of respect of offenders for court, 38.
Lack of training serious handicap, 68.
Lack of uniformity of treatment by courts, 37.
Laws must deal with offender as individual, 43.
Lombroso, definition of characteristics of born criminals, 23.

M

Marking system, 225; use of token money in, 231.
Mental age group, 79.
Mental defects, different degrees of, 62; a danger signal, 66.
Mental handicap, 61.
Mentality of children in public schools, 65.
Minnesota State Prison, 189, 204.
Mixed autocratic and benevolent despotic discipline, 159.
Mixed benevolent despotic and Hamiltonian Republican discipline, 161; difference between, and Elmira system, 162.
Modern city must develop plan for utilizing leisure time of citizens, 281.
Montessori method, 75.
Morals-control work weakens police morale, 287; opposition to, 291.
Moving-picture aid in teaching, 213, 282.
Municipal Farm on Rikers Island, 191.

N

Nature and cause of delinquency, 70.
Necessary force used in court, 50.
New classifications based on studies of individual offender, 171.
New York City Inebriety Farm, 187.
New York City Reformatory, 186.

O

Offender, the, 3; product or by-product? 3; chief difficulty with organized society's treatment of, 13; classification of, 59; physical and mental status of, 59; casual and environmental or social, 70; constitutional or habitual, 72; symtomatic, 74; forces inimical to development of, 286; relation between lack of education and development of, 267.
Offenses for which maximum demerits may be imposed, 222, 223.
Old correctional institutions, 15.
Old ideas regarding the offender, 5.
One's right not to be a witness against himself, 49.
Opposition to probation system, 85.
Organization of communities as means of improving medical service, 284.
Orphan Asylum of the Hebrew Sheltering Guardian Society, 185.
Otisville Sanitarium, 193.

P

Parasitic offenders, prevention of development of, 253.
Parental responsibility, 260, 261.
Parole officers, 302; who should act as, 96.
Parole system, 94; criticisms of, 97; of the city of New York, first experimental plan, 129.
Parole, who shall be placed upon, 93.
Penal law often unfair to children, 293.

Percentage of defective persons among vagrants, etc., 282.
Permanent custodial cases should be segregated, 124.
Personality of warden or superintendent important, 30.
Philadelphia, or separate, system, 142, 148.
Physical age group, 77.
Physical and mental status of offender, 59.
Police, supervision, 286; procedure regarding ball-playing in street, 294; abuses of discretionary power of, how to prevent, 296, 297, 298; and the ex-convict, 299; remedial measures for police to take, 305; committee on distress and unemployment, 307; mendicant squad, 308.
Possibilities of abuse of group system, 229.
Power of judge as to sentence, 52.
Preston School of Industry, California, 163.
Prevention of development of parasitic class of offender, 253.
Prevention, work of, must be begun early, 254.
Principles adopted at Cincinnati meeting of American Prison Association, 1870, 26.
Prisons, congestion of, 45.
Prison government, best types of, 169.
Prison or hospital? 175.
Prison reform from within, 25.
Probation and parole, combination of, 98.
Probation officers, who should be, 83.
Probation, system, result of, 80; who should be placed on, 80; work must be specialized, 83; is it punishment? 85; severe punishment may be imposed by extension of, 88; how long should it continue? 92.
Problem of education is one of training and adjustment, 273.
Procedure in City Magistrates' Court, 32; in Court of General Sessions, 34; Criminal Term, Supreme Court, 34; of police department regarding ball-playing in streets, 294; on receiving prisoners, 216.
Productive prison work, 197.
Proper organization of a correction department, 175.
Protection derived from adequate identification records, 51.
Provisions of State penal codes, 125.
Punishment, 233; different purposes of, 11; purposes for which it may be inflicted, 53; what constitutes, 86.

R

Radical ideas regarding the offender, 6.
Reception procedure, 216.
Records and accounts, 246.
Records, inaccessibility of, 44, 45, 91; should be readily accessible, 100; consolidation and centralization of, 101.
Recreation and education, 281; and play, 276.
Relation between lack of education and development of offender, 267.
Releases and discharges, 247.
Remedial measures for police to take, 305.
Reversal of convictions, 42.

S

Schmidlapp Test Bureau, 104.
School, the, 262; compulsion factor to be considered in securing attendance at, 274.
Sentences, imposition of, 51; power of judge as to, 52; to hard labor impractical, 211.
Separate and silent systems of discipline, 142.

Should institutions keep track of former inmates? 248.
Social control of the offender, 9.
Social offender, the, 70.
Social reformation and correction work, 27.
Society has resources other than law and courts, 8.
State Reformatory at Bedford Hills, 161, 182.
State supply law, 203.
"Stool-pigeon" system a necessary evil, 296.
Street playgrounds, 306, 307.
Structures to be avoided, 194.
Study of the individual, 102.
Substitution of solitary confinement for corporal punishment, 234.
Supervision of inmate government, to be effective, must be invisible, 173.
Supervision of work and training, 214.
Supreme Court, Criminal Term, 34.
Symptomatic offender, the, 74.

T

Table of age groups, 254.
Test, of ability to respond to stimuli, 102; of efficiency of government, 173.
Three R's, the, 263.
Tradition a leading factor in public education, 262.
Traditional restrictions in present court system, 38.
Training, all-important, 74; required, 74; importance of providing right sort, 269.
Types of industrial school group institutions, 176, 181, 182.

U

Unskilled, the, 68.

V

Vagrant class, the, 67; high percentage of defective persons among, 282.
Value of outside court action in maintaining discipline, 239, 240.
Vocational Bureau of the City of Cincinnati, 269.

W

Wardens, should have power to deal with most infractions of rules, 238; should be enabled to sit as magistrates, 240.
Weaknesses of present system of criminal procedure, 36.
Westchester County Penitentiary, 188.
What constitutes punishment? 86.
What experience teaches, 137.
Who should be placed on probation, 80.
Who should be probation officers, 83.
Work system, the, 230.

Y

Yates law, 201.
Young vagrant or offender usually without training, 268.

THE END

Date Due

RESERVE
AP 20 '39

APR 15 2014

1817
1917

HV8665 .L67
The offender and his relations to law
Princeton Theological Seminary–Speer Library
1 1012 00025 6935